

**UNAPPROVED**

THE CITY OF SAN DIEGO, CALIFORNIA  
MINUTES FOR REGULAR COUNCIL MEETING  
OF  
MONDAY, MARCH 24, 2008  
AT 2:00 P.M.  
IN THE COUNCIL CHAMBERS - 12TH FLOOR

**CHRONOLOGY OF THE MEETING:**

The meeting was called to order by Council President Pro Tem Madaffer at 2:05 p.m. Council President Pro Tem Madaffer recessed the meeting at 2:55 p.m. for the purpose of a break. Council President Peters reconvened the meeting at 3:00 p.m. with all Council Members present. Council President Peters recessed the meeting at 5:01 p.m. for the purpose of a break. Council President Peters reconvened the meeting at 5:06 p.m. with all Council Members present. The meeting was adjourned by Council President Peters at 5:36 p.m.

**ATTENDANCE DURING THE MEETING:**

- (1) Council Member Peters-present
- (2) Council Member Faulconer-present
- (3) Council Member Atkins-present
- (4) Council Member Young-present
- (5) Council Member Maienschein-present
- (6) Council Member Frye-present
- (7) Council Member Madaffer-present
- (8) Council Member Hueso-present
- Clerk-Maland (sr)

FILE LOCATION: MINUTES

Minutes of the Council of the City of San Diego  
for the Regular Meeting of Monday, March 24, 2008

Page 2

## ITEM-1: ROLL CALL

Clerk Maland called the roll:

- (1) Council Member Peters-not present
- (2) Council Member Faulconer-not present
- (3) Council Member Atkins-present
- (4) Council Member Young-present
- (5) Council Member Maienschein-present
- (6) Council Member Frye-present
- (7) Council Member Madaffer-present
- (8) Council Member Hueso-present

FILE LOCATION: MINUTES

## ITEM-10: INVOCATION

Invocation was given by Ray Regno of Horizon Christian Fellowship.

FILE LOCATION: MINUTES

## ITEM-20: PLEDGE OF ALLEGIANCE

The Pledge of Allegiance was led by Council Member Atkins.

FILE LOCATION: MINUTES

Minutes of the Council of the City of San Diego  
for the Regular Meeting of Monday, March 24, 2008

Page 3

## CLOSED SESSION ITEMS:

Conference with Legal Counsel - existing litigation, pursuant to California Government Code Section 54956.9(a):

CS-1 *City of San Diego v. Tracy Means, et al.*  
San Diego Superior Court Case No. GIC 858344 (on appeal)

Tracy Means v. The City of San Diego  
Case No.: GIC 864419 (the City prevailed)

Tracy Means v. City of San Diego  
A municipal corporation and a Political Subdivision of the State of California 37-2007-00083609-CU-MC-CTL

## REFERRED TO CLOSED SESSION OF TUESDAY, MARCH 25, 2008

DCA Assigned: J. Cordileone

This matter involves the above related lawsuits involving Tracy Means and her request to enter into settlement negotiations.

## Closed Session Comment 1:

Paula Rosenstein commented on the status of the litigation.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 2:08 p.m. - 2:18 p.m.)

Council President Peters closed the hearing.

CS-2 *In The Matter of: Natural Gas Anti-Trust Cases I, II, III, & IV*  
*Re: All Price Indexing Cases,*  
San Diego Superior Court JCCP Nos. 4221, 4224, 4226, and 4228

## REFERRED TO CLOSED SESSION OF TUESDAY, MARCH 25, 2008

Minutes of the Council of the City of San Diego  
for the Regular Meeting of Monday, March 24, 2008

Page 4

DCA Assigned: F. Ortlieb

This matter involves a pending consolidated action lawsuit against retail sellers of natural gas for anti-competitive acts and unfair business practices in 2000 and 2001. In Closed Session, the City Attorney will discuss a recommended settlement proposed with Defendant Duke Energy.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 2:08 p.m. - 2:18 p.m.)

**Council President Peters closed the hearing.**

**CS-3** *Citizens for Responsible Equitable Environmental Development v. City of San Diego*  
San Diego Superior Court Case No. GIC 871259;

*Citizens for Responsible Equitable Environmental Development, et al. v. City of San Diego*  
San Diego Superior Court Case No. GIC 876017

**REFERRED TO CLOSED SESSION OF TUESDAY, MARCH 25, 2008**

DCA Assigned: M. Dickenson

These matters involve California Environmental Quality Act challenges to the City Council's approvals of condominium conversions. The City Attorney will update the Mayor and the City Council on the status of litigation in Closed Session.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 2:08 p.m. - 2:18 p.m.)

**Council President Peters closed the hearing.**

**Conference with Legal Counsel - anticipated litigation - significant exposure to litigation, pursuant to California Government Code Section 54956.9(b):**

**CS-4** Number of potential cases: One (North Park Theatre Project)

**REFERRED TO CLOSED SESSION OF TUESDAY, MARCH 25, 2008**

CDCA Assigned: H. Carlyle

In Closed Session, the City Attorney will advise the City Council on potential litigation and possible resolutions of the matter.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 2:08 p.m. - 2:18 p.m.)

Council President Peters closed the hearing.

Conference with Legal Counsel - anticipated litigation – initiation of litigation, pursuant to California Government Code Section 54956.9(c):

CS-5 Number of Cases: One

**REFERRED TO CLOSED SESSION OF TUESDAY, MARCH 25, 2008**

DCA Assigned: J. Serrano

Consideration of litigation against the San Diego Regional Airport Authority regarding its anticipated Final Environmental Impact Report on its master plan for expansion.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 2:08 p.m. - 2:18 p.m.)

Council President Peters closed the hearing.

Conference with Legal Counsel - anticipated litigation - significant exposure to litigation, pursuant to California Government Code Section 54956.9(b):

CS-6 Voluntary Compliance Program Filing

**REFERRED TO CLOSED SESSION OF TUESDAY, MARCH 25, 2008**

**Minutes of the Council of the City of San Diego  
for the Regular Meeting of Monday, March 24, 2008**

**Page 6**

In Closed Session, the Mayor requests that Outside Counsel provide a Status Report on Labor Issues related to Pension System Changes included in the Voluntary Compliance Program Filing.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 2:08 p.m. - 2:18 p.m.)

**Council President Peters closed the hearing.**

ITEM-200: Awarding Contract for Furnishing Office Supplies to All Departments in the City of San Diego.

**STAFF'S RECOMMENDATION:**

Adopt the following resolution:

(R-2008-730) CONTINUED TO TUESDAY, APRIL 1, 2008

Authorizing the Mayor, or his designee, to execute, for and on behalf of the City, an Agreement with Staples Business Advantage to furnish office supplies on as-needed basis, and under the terms and conditions set forth in the Memorandum of Understanding;

Authorizing the expenditure of an amount not to exceed \$955,000 for Fiscal Year 2008, to provide funds for the above Memorandum of Understanding, provided that the City Auditor and Comptroller furnishes one or more certificates demonstrating that the funds necessary for expenditure are, or will be, on deposit with the City Treasurer;

Declaring that the above activity is not subject to the California Environmental Quality Act pursuant to CEQA Guidelines Section 15060(c)(3) because the purchase is a continuing administrative or maintenance activity, and therefore not a project pursuant to Guidelines Section 15378(b)(2).

**STAFF SUPPORTING INFORMATION:**

As part of Purchasing & Contracting's strategic sourcing initiative, the four major office supply companies, Corporate Express, Office Depot, Office Max, and Staples, were contacted to provide proposals for supplying Office Supplies to the City. To be considered, the companies must have a Public Agency Agreement, environmentally friendly products and an established "Green" program, Desk Top Delivery (also known as Just-In-Time delivery), and on-line ordering and training. The proposal from Staples provides the best value for the City.

A yearly savings of \$179,000 over the City's previous Office Supplies contract, Bid No. 5217-02-A, is anticipated with Staples. The Staples On-Line ordering system and training program will be tailored to meet City requirements and will provide a seamless transition from the incumbent supplier's system to Staples' ordering system. Staples offers an additional price discount if the City spends more than targeted amounts in one contract year.

Staples is committed to being an industry leader in preserving our environment and offers over two thousand (2,000) products made with post-consumer recycled content. They support the City's environmental recycling and waste reduction programs and actively encourage recycling. City employees can bring their pagers, inkjet and toner cartridges, Personal Digital Assistants (PDA), and rechargeable batteries to Staples stores to be recycled.

**EQUAL OPPORTUNITY PARTICIPATION AND OUTREACH:**

This Contract falls within the requirements for the procurement of commodities and services. A Workforce plan was required and provided. Staples, Inc. has an established supplier diversity mentorship program that enlists assistance from MWBE's and regional Minority Councils. Their program strives to enhance diversity in their service suppliers and add value - not cost to the customer. In addition, the Equal Opportunity Contracting team will work with Purchasing & Contracting to establish ways to include small and disadvantaged businesses in these types of procurements as office supplies which has historically been a commodity where there are ready, willing and able small and disadvantaged businesses available.

**FISCAL CONSIDERATIONS:**

Authorize the estimated expenditure of \$955,000, including tax, for Fiscal Year 2008, and an annual estimated yearly cost amount of \$1,910,000 for each Option Year one through four (1-4), from Fund No. 50010, Department No. 810, Organization No. 5099, Object Account No. 3231 and Job Order No. 009001 for City Departments to purchase items on an as-needed basis, pending availability of funds, including tax and payment terms of Net 30 Days. Price escalation will not exceed 10% of the prices in effect at the end of each prior Contract year.

**Minutes of the Council of the City of San Diego  
for the Regular Meeting of Monday, March 24, 2008**

Page 8

PREVIOUS COUNCIL and/or COMMITTEE ACTION:

City Council Resolution Number R-296368, adopted on April 22, 2002, approved the award of Bid No. 5217-02-A to contract, by the City's participation in the County of San Diego's Just-In-Time Office Supply Contract, with Corporate Express. The term of the contract was for an initial one (1) year period, with options to renew for four additional years.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

Four potential suppliers were contacted. The bid was a strategic sourcing initiative utilizing Public Agency Agreements and, therefore, was not advertised publically or posted on the City's official web site.

KEY STAKEHOLDERS AND PROJECTED IMPACTS:

All City Departments, citizens of the City of San Diego, and Staples are key stakeholders. The projected impact is the anticipated significant reduction of City expenses for office supplies.

KNOWN OPPOSITION IDENTIFIED:

Corporate Express submitted written opposition to the award process. Purchasing & Contracting's response, letter dated February 7, 2008, is enclosed. A memo provided to City Council by Corporate Express on March 4, 2008, is also enclosed. The Corporate Express memo contains errors. The Pricing Analysis is 56% of spend, not 36%. The NJPA program was not customized.

Rimes/Goldstone

Aud. Cert. 2800575.

Staff: Tammy Rimes - (619) 236-5921  
Sanna R. Singer - Deputy City Attorney

FILE LOCATION: NONE

COUNCIL ACTION: (Time duration: 2:18 p.m. – 2:52 p.m.)

MOTION BY FRYE TO CONTINUE TO TUESDAY, APRIL 1, 2008, FOR FURTHER REVIEW. Second by Faulconer. Passed by the following vote: Peters-recused, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-nay, Hueso-yea.



ITEM-201: Settlement of Litigation Entitled Beacon Electric Supply v. Saturn Electric Inc.

**CITY ATTORNEY'S RECOMMENDATION:**

Adopt the following resolution:

(R-2008-513)                      REFERRED TO CLOSED SESSION

Approving by the City Council in Closed Session on Tuesday, September 18, 2007, by the following vote: Council President Peters-yea; Faulconer-yea; Atkins-yea; Council President pro Tem Young-yea; Councilmember Maienschein-nay; Frye-yea; Councilmember Madaffer-yea; Hueso-yea. Councilmember Maienschein-absent.

Authorizing the Mayor, or his designee, to release the amount of \$1,618,143.25 in funds earned by Orion Construction but retained by the City, and to pay an additional amount of \$900,000 in the settlement of each and every claim of Orion Construction against the City, its agents and employees, arising from the Rehabilitation of Pump Stations 77A and 77B Project as set forth in San Diego Superior Court Case No. GIC 849095, Beacon Electric Supply v. Saturn Electric, Inc., et al;

Authorizing the City Auditor and Comptroller to appropriate and issue one check in the amount of \$900,000 payable to Orion Construction in full settlement of all claims arising from the Rehabilitation of Pump Stations 77A and 77B Project;

Declaring that said funds are to be payable from Sewer Fund No. 41506.

**SUPPORTING INFORMATION:**

This litigation arises from delays associated with the project known as the Rehabilitation of Pump Stations 77A & 77B. Sewer pump stations 77A and 77B are the sewer pump stations that convey wastewater from the Rancho Bernardo area of San Diego to the City of Escondido's treatment facility.

Various issues arose during construction that led to significant delays in the completion of the project. The project was essentially completed in July 2006 and the pumps have been operating for nearly two years.

**Minutes of the Council of the City of San Diego  
for the Regular Meeting of Monday, March 24, 2008**

**Page 10**

After preparation and analysis of an as-built critical path schedule for the project, the City determined that Orion was entitled to an extension of contract time of 421 days due to events beyond its control. The City also determined that Orion and/or its subcontractors were responsible for 241 days of delay, for which liquidated damages have been assessed in the amount of \$361,500.

This settlement results in a net payment to Orion of \$2,518,143.25, which reflects additional costs incurred by Orion less the liquidated damages assessed by the City. Payment will be made to Orion by releasing the contract balance earned by Orion but being held by the City in the amount of \$1,618,143.25, plus an additional payment of \$900,000 above the current contract price. Both parties agreed to sign a release of all claims and Orion agreed it would defend and indemnify the City for any claims by its subcontractors.

FISCAL CONSIDERATIONS:

\$900,000 is available in Sewer Fund No. 41506.

PREVIOUS COUNCIL and/or COMMITTEE ACTION:

This settlement and payment was considered by the City Council in Closed Session on September 18, 2007. On motion of District 7 and second by District 1, the City Council, by the following vote: Yeas, Districts 1, 2, 3, 4, 6, 7, and 8; Nays, District 5; Not Present, None; approved the settlement of all claims of Orion Construction Company against the City in Beacon Electric Supply v. Saturn Electric, Inc., et al, San Diego Superior Court Case No. GIC 849095, for release of the contract balance of \$1,618,143.25 to Orion and the payment of an additional \$900,000.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS: N/A

KEY STAKEHOLDERS & PROJECTED IMPACTS (if applicable): N/A

Zeleny

**NOTE:** The Auditor's Certificate was not requested prior to Closed Session. The vote taken in Open Session shall be the official vote.

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 3:00 p.m. – 3:28 p.m.)

MOTION BY MADAFFER TO REJECT STAFF'S RECOMMENDATION AND REFER TO CLOSED SESSION. Second by Maienschein. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Hueso-yea.

ITEM-202: Rooming House Ordinance, proposed amendments to the Land Development Code and the Local Coastal Program to prohibit the commercial use of single dwelling units in single residential unit zones. (Citywide.)

*Rooming House Ordinance*

The City Council will either adopt, modify, or not adopt amendments to the Land Development Code (Chapter 11, Article 3; Chapter 13, Article 1; Chapter 14, Article 2) and the Local Coastal Program.

The purpose of the rooming house ordinance is to address the chronic and growing commercial overuse of dwelling units especially in residential-single unit zones. The ordinance would create a new rooming house zoning use subcategory. The ordinance would define a rooming house as a dwelling unit where three or more rooms are rented individually or separately, to tenants under separate rental agreements. Rooming houses would not be permitted in RS, RM-1, or RM-2 zones but would be permitted (by right) in RM-3 and RM-4 zones, and in most commercial zones. A phase out period would allow existing rooming houses in RS, RM-1, and RM-2 zones to continue to operate as a previously conforming use for three years following adoption of the ordinance. The ordinance would apply a basic off-street parking space ratio of 1 space per tenant except under certain situations where the ratio decreases fractionally.

On September 6, 2007, the Planning Commission reviewed the rooming house ordinance and voted 6-0-0 to recommend adoption of the ordinance with the following changes: 1) a phase-out period of 3 years (instead of 7 years) for existing rooming houses; 2) an elevated review process for Neighborhood Use Permits needed to expand existing rooming houses; and, 3) application of the ordinance to rooming houses where fewer than three rooms and three separate rental agreements still results in multiple, independent living units.

Minutes of the Council of the City of San Diego  
for the Regular Meeting of Monday, March 24, 2008

Page 12

\* Unless otherwise noticed or stated on the record at the hearing, if an ordinance is approved and introduced by the City Council, it will automatically be scheduled for a hearing by the City Council for final passage at 10:00 a.m. on the Tuesday two weeks after the subject hearing.

The proposed Rooming House Ordinance would apply to the Coastal Zone, therefore the City Council's decision requires amending the City's Local Coastal Program. As a result, the final decision on the amendments to the Land Development Code and associated Local Coastal Program amendments will be with the California Coastal Commission. The City of San Diego must submit the amendments to the Land Development Code as an amendment for certification to the Coastal Commission. The ordinance will not be effective in the Coastal Zone until the Coastal Commission unconditionally certifies the amendment.

(See Report to Planning Commission PC 07-150/Project No. 137077.)

(Continued from the meeting of 11/19/2007, Item 201 at the request of Councilmember Madaffer, direction to re-introduce Ordinance with changes by City Attorney and Development Services.)

**NOTE:** Hearing open. Testimony taken on 11/19/2007.

**CITY ATTORNEY'S RECOMMENDATION:**

Introduce the following ordinance:

(O-2008-61)                      INTRODUCED, TO BE ADOPTED TUESDAY,  
APRIL 15, 2008

Introduction of an Ordinance of the Council of the City of San Diego amending Chapter 11, Article 3, Division 1, by amending Section 113.0103; by amending Chapter 13, Article 1, Division 1, by amending Section 131.0112; Division 2, by amending Section 131.0222; Division 3, by amending Section 131.0322; Division 4, by amending Sections 131.0422 and 131.0423; Division 5, by amending Section 131.0522; Division 6, by amending Section 131.0622; and, by amending Chapter 14, Article 2, Division 5, by amending Section 142.0525.

**OTHER RECOMMENDATIONS:**

Planning Commission on September 6, 2007, voted 6-0-1 to recommend approval, with three modifications.

Minutes of the Council of the City of San Diego  
for the Regular Meeting of Monday, March 24, 2008

Page 13

- Ayes: Garcia, Griswold, Otsuji, Naslund, Smiley, Schultz.
- Nays: None.
- Not present: Ontai.

Planning Groups:

- Community Planners Committee 26-4-1. On November 27, 2007, based on the ordinance presented to Council on November 19, 2007 (0-2008-61)(10/26/07) the Community Planning Committee voted 26-4-1 in favor of the ordinance.
- 21 Community Planning Groups have (or will have) heard and considered the rooming house ordinance by March 24, 2008. In sum, at least, 8 groups have voted in favor of the ordinance; 1 opposed, and 10 have heard the ordinance as an informational item. Two more groups are scheduled between the release of this document and the March 24, 2008 hearing to consider the ordinance.

**SUPPORTING INFORMATION:**

REQUESTED ACTION: Adopt the Rooming House Ordinance

CITY ATTORNEY RECOMMENDATION: Adopt the Rooming House Ordinance.

**EXECUTIVE SUMMARY:**

The ordinance will address the chronic and growing problem of commercial overuse of dwelling units in RS unit zones, and consistent with the purposes of these zones, it will protect the neighborhood quality of life, and will minimize adverse impacts between adjacent properties. The ordinance would amend both the Land Development Code and the Local Coastal Program and would apply citywide. Specifically, the ordinance would do the following:

- Define the following term *rooming house* as a dwelling unit where three or more rooms are rented individually or separately, to tenants under separate rental agreements. (Ch. 11, Art. 3)
- Exclude rooming houses from RS, RM-1, and RM-2 unit zones; allow them as a permitted use (by right) in RM-3 and RM-4 unit zones, and in most commercial zones where mixed-use is appropriate. (Ch. 13, Art. 1)
- Establish a three-year phase out period for existing rooming houses, based upon factors that balance the public interest against the private harm. (Ch 13, Art. 1)
- Apply a basic off-street parking space ratio of 1 space per tenant except under certain situations where the ratio decreases fractionally. (Ch. 14, Art. 2)

FISCAL CONSIDERATIONS: None.

PREVIOUS COUNCIL and/or COMMITTEE ACTION:

- On July 9, 2007, the City Attorney presented a draft rooming house ordinance to City Council as an informational item. Extensive public testimony uniformly supported adoption of a rooming house ordinance, and City Council unanimously passed a motion supporting the return of a rooming house ordinance by early Fall, including consideration by Planning Commission, and targeted community planning groups.
- On September 6, 2007, Planning Commission voted unanimously to recommend adoption of a rooming house ordinance with the following changes:
  - 1) a phase-out period of 3 years (instead of 7 years) for existing rooming houses;
  - 2) an elevated review process for Neighborhood Use Permits to expand existing rooming houses; and,
  - 3) application of the ordinance to rooming houses where fewer than three rooms and three separate rental agreements still results in multiple, independent living units.
- On November 19, 2007, City Council voted 6-2 to have the ordinance specifically revised, and to address outstanding concerns of Development Services Department.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

The City Attorney has presented the ordinance to 21 Community Planning Groups and to the Community Planners Committee. The ordinance has been posted on the City Attorney website since before the City Council meeting of July 9, 2007. In addition, there have been numerous hearings and public forums on the issue since September 19, 2006, as described above in the section on previous legislative action.

KEY STAKEHOLDERS AND PROJECTED IMPACTS:

Rooming house tenants will have three years to seek replacement housing whether in RM-3 and RM-4 unit zoned areas, or commercial zones, where dwelling units exist with similar densities and characteristics as rooming houses, or in other residential zones, in alternative living arrangements, where tenants have common access and financial responsibility for use of the dwelling unit as a whole. The ordinance will not cause the loss of dwelling units or rental units because it regulates the commercial structuring of rentals in selected zones; it does not restrict whether a dwelling unit may be rented, or the number of tenants in each rental. In RS zones, dwelling units that were once rooming houses can be re-marketed as whole house rentals rather than by the room.

Minutes of the Council of the City of San Diego  
for the Regular Meeting of Monday, March 24, 2008

Page 15

All property owners in RS, RM-1, and RM-2 zones would continue to be allowed to rent up to two rooms to two boarders or lodgers as an accessory use to a primary dwelling unit. (SDMC §141.0301) It should also be noted that the ordinance will not apply to housing for disabled persons, such as the mentally ill, which are protected by federal and state fair housing laws, and will not apply to senior and transitional housing that is otherwise subject to Separately Regulated Use regulations in Chapter 14, Article 1 of the Land Development Code.

Greene

**NOTE:** Development Services Department issued an exemption for the ordinance on the basis that it is categorically exempt pursuant to following state CEQA Guideline, Section 15301, for existing facilities.

Staff: Marianne Greene - Deputy City Attorney – (619) 533-5822

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 3:28 p.m. - 5:00 p.m.)

Testimony in favor by Cathleen Kenney, Tyler Sherer, April Boling, Rosary Nepi, Karen Hayes, Deborah Parker, Duane Shockey, Shirley Foretic, Doug Case, Andy Beauparlant, Ann Cottrell, Bernardine Wortman, Daniel Schwimmer, Robert Pierchio, Paul Martin, Rob Nelson, and Michael Jenkins.

Testimony in Opposition by Paul Hastie, Alan Pentico, and Tim Sankary.

MOTION BY MADAFFER TO INTRODUCE. Second by Faulconer. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Hueso-yea.

ITEM-S400: Extension of Agreement with Mercer Consulting for Additional Services Related to the Proposed Pension Plan.

(See memorandum from Jay Goldstone dated 3/17/2008.)

**STAFF'S RECOMMENDATION:**

Adopt the following resolution:

(R-2008-795)

CONTINUED TO TUESDAY, APRIL 1, 2008

Authorizing the Mayor to negotiate an extension to the current agreement with Mercer Consulting for additional services related to the Proposed Pension Plan in the amount of \$185,000;

Authorizing the City Auditor and Comptroller to appropriate and expend \$185,000 from the Risk Management Fund balance, to Risk Management Department, for the purpose of funding services related to the Proposed Pension Plan.

**STAFF SUPPORTING INFORMATION:**

Like most state and local governments the City is challenged with providing and funding retirement and pension plans. In March 2007 the City issued a request for proposal (RFP) for selection of a consultant to address these issues.

Mercer Consulting was selected based on their familiarity with public and private sector retirement/pension plans and their successfully demonstrated ability to perform consulting work of a similar scope and nature.

The City entered into an agreement with Mercer Consulting to conduct a comprehensive analysis of the City's existing retirement and pension plans and to assist the City with plan design. Mercer has completed this assignment and the City has proposed the new plan to the City's labor organizations; however, additional services and meetings with Mercer and the labor organizations are required. Although these services were not part of the core requirements and deliverables they fall within the scope of work and were included in the RFP as optional consulting services, pricing included. Accordingly, a contract extension is required in order to complete the project and honor the City's obligations in the meet and confer process.

**FISCAL CONSIDERATIONS:**

The cost of the original contract was not to exceed \$250,000. This request is for an additional \$185,000, for a total not to exceed of \$435,000. Funding for this project is available in the Risk Management Fund, Fund 50061.



PREVIOUS COUNCIL and/or COMMITTEE ACTION:

On March 4, 2008, City staff and Mercer presented the proposed pension plan design to the City Council in closed session.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

Not applicable.

KEY STAKEHOLDERS AND PROJECTED IMPACTS:

With the exception of sworn public safety employees, the proposed pension plan affects all new City employees hired after December 31, 2007.

VanDeweghe

Aud. Cert. 2800660.

Staff: Greg Bych - (619) 236-6651  
Lori Thacker - Deputy City Attorney

FILE LOCATION: NONE

COUNCIL ACTION: (Time duration: 5:21 p.m. – 5:33 p.m.)

MOTION BY FRYE TO CONTINUE TO TUESDAY, APRIL 1, 2008, FOR FURTHER REVIEW. Second by Madaffer. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Hueso-yea.

ITEM-S401: First Amendment to the Agreement with Liebert Cassidy Whitmore for Professional Consultant Services.

(See memorandum from Jay Goldstone dated 3/21/2008.)

STAFF'S RECOMMENDATION:

Adopt the following resolution:

(R-2008-797 Cor. Copy)      ADOPTED AS AMENDED AS  
RESOLUTION R-303500

Authorizing the City Auditor and Comptroller to transfer \$184,750 from the General Fund Unallocated Reserves to the General Fund 100 Citywide Program Expenditures Department 601, for the Consulting Agreement First Agreement;

Declaring that the remaining cost allocation will be distributed via the Fiscal Year 2008 FTE Cost Allocation;

Declaring that this activity is not a "project" and is therefore not subject to the California Environmental Quality Act (CEQA), pursuant to State CEQA Guidelines Section 15060(c)(3).

**STAFF SUPPORTING INFORMATION:**

In December of 2007, the City of San Diego ("City") entered into an Agreement with Liebert Cassidy Whitmore ("LCW") to provide consulting services to the City pertaining to the meet and confer process with the City's five recognized employee organizations. The original Agreement was for a not-to-exceed amount of \$400,000. The proposed amendment would increase the not-to-exceed amount by \$250,000 for a total not-to-exceed amount of \$650,000.

The scope of LCW's Agreement, as memorialized in the original agreement is to act as lead negotiator in the meet and confer processes for Fiscal Year 2008-2009 (or thereafter) Memoranda of Understanding with representatives of the San Diego Municipal Employees Association (MEA); the San Diego Police Officers Association; Local 127; American Federal of State, County and Municipal Employees, District Council 36, AFL-CIO and Local 145, International Association of Firefighters. Consultant shall perform or direct performance by City staff of all services reasonably related to participation by the City in said meet and confer process.

**FISCAL CONSIDERATIONS:**

Transfer \$184,750 from the General Fund Unallocated Reserves to the General Fund 100 Citywide Program Expenditures Department 601. The remaining cost allocation will be distributed via the Fiscal Year 2008 FTE Cost Allocation Schedule, to pay for the continued consulting services pertaining to the meet and confer process with the City's five recognized employee organizations.

**PREVIOUS COUNCIL and/or COMMITTEE ACTION:**

On December 18, 2007, the City Council unanimously approved the Agreement with Liebert Cassidy Whitmore for Professional Consultant Services.

**Minutes of the Council of the City of San Diego  
for the Regular Meeting of Monday, March 24, 2008**

**Page 19**

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS: None.

KEY STAKEHOLDERS AND PROJECTED IMPACTS: None.

EOC INFORMATION

Funding Source:	City - Prevailing Wages do not apply to this contract
Goal Requirement:	No goal requirements
Original Contract Amount:	\$400,000
Change Order Amount:	\$250,000

EOC Staff is concerned about the under representations in the firm's workforce and therefore, has requested an Equal Employment Opportunity Plan and will continue to monitor the firm's effort to implement their plan. This Agreement is subject to the City's Equal Opportunity Contracting (San Diego Ordinance No. O-18173, Section 22.2701 through 22.2702) and Non-Discrimination in Contracting Ordinance (San Diego Municipal Code Sections 22.3501 through 22.3517.)

Chadwick/Goldstone

Aud. Cert. 2800663.

Staff: Scott Chadwick - (619) 236-6313  
Michael Calabrese - Deputy City Attorney

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 5:07 p.m. – 5:20 p.m.)

MOTION BY ATKINS TO ADOPT AS AMENDED BY CHANGING THE REFERENCE TO THE FUNDING SOURCE FROM "UNALLOCATED" TO "APPROPRIATED" ON THE COST ALLOCATION BREAKDOWN SHEET. Second by Madaffer. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Hueso-yea.

ITEM-250: Notice of Pending Final Map Approval – 4878 Cape May Avenue.

Notice is hereby given that the City Engineer has reviewed and will approve on this day the subdivision of land shown on that certain final map entitled “4878 Cape May Avenue” (T.M. No. 360155/PTS No. 144339), located on the north side of Cape May Avenue between Cable Street and Sunset Cliffs Boulevard in the Ocean Beach Community Plan Area in Council District 2, a copy of which is available for public viewing at the Office of the San Diego City Clerk.

Specifically, the City Engineer has caused the map to be examined and has made the following findings:

- (1) The map substantially conforms to the approved tentative map, and any approved alterations thereof and any conditions of approval imposed with said tentative map.
- (2) The map complies with the provisions of the Subdivision Map Act and any local ordinances applicable at the time of approval of the tentative map.
- (3) The map is technically correct.

Said map will be finalized and recorded unless a valid appeal is filed. Interested parties will have 10 calendar days from the date of this Council hearing to appeal the above findings of the City Engineer to the City Council. A valid appeal must be filed with the City Clerk no later than 2:00 p.m., 10 calendar days from the date of this Notice stating briefly which of the above findings made by the City Engineer was improper or incorrect and the basis for that conclusion. If you have questions about the approval findings or need additional information about the map or your appeal rights, please feel free to contact Anne Hoppe at (619) 446-5290.

REPORT OUT OF CLOSED SESSION:

None.

Minutes of the Council of the City of San Diego  
for the Regular Meeting of Monday, March 24, 2008

Page 21

NON-DOCKET ITEMS:

None.

ADJOURNMENT:

The meeting was adjourned by Council President Peters at 5:36 p.m. in honor of the memory of:

Lillian Poltere at the request of Council Member Frye.

FILE LOCATION:

AGENDA

COUNCIL ACTION:

(Time duration: 5:34 p.m. – 5:36 p.m.)

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Elizabeth S. Maland, City Clerk  
City of San Diego

UNAPPROVED

THE CITY OF SAN DIEGO, CALIFORNIA  
MINUTES FOR REGULAR COUNCIL MEETING  
OF  
TUESDAY, MARCH 25, 2008  
AT 9:00 A.M.  
IN THE COUNCIL CHAMBERS - 12TH FLOOR

CHRONOLOGY OF THE MEETING:

The meeting was called to order by Council President Peters at 10:09 a.m. The meeting was recessed by Council President Peters at 12:00 p.m. to reconvene at 2:00 p.m.

The meeting was reconvened by Council President Peters at 2:04 p.m. with Council Member Hueso not present. Council President Peters convened the Redevelopment Agency at 2:17 p.m. Council President Peters reconvened the regular meeting at 2:18 p.m. with all Council Members present. Council President Peters recessed the meeting at 2:20 p.m. to reconvene the Redevelopment Agency. Council President Pro Tem Madaffer reconvened the regular meeting at 2:20 p.m. with all Council Members present. Council President Peters recessed the meeting at 3:02 p.m. to reconvene the Redevelopment Agency. Council President Peters reconvened the regular meeting at 3:08 p.m. with all Council Members present. Council President Peters recessed the meeting at 3:08 p.m. to reconvene the Redevelopment Agency. Council President Peters reconvened the regular meeting at 3:10 p.m. with all Council Members present. Council President Peters recessed the meeting at 3:19 p.m. for the purpose of a break. Council President Peters reconvened the meeting at 3:24 p.m. with Council Member Young, Council Member Maienschein, and Council President Pro Tem Madaffer not present. The meeting was adjourned by Council President Peters at 5:32 p.m.

ATTENDANCE DURING THE MEETING:

- (1) Council Member Peters-present
- (2) Council Member Faulconer-present
- (3) Council Member Atkins-present
- (4) Council Member Young-present
- (5) Council Member Maienschein-present
- (6) Council Member Frye-present

Minutes of the Council of the City of San Diego  
for the Regular Meeting of Tuesday, March 25, 2008

Page 2

(7) Council Member Madaffer-present

(8) Council Member Hueso-present

Clerk-Maland (dlc/mz)

FILE LOCATION: MINUTES

ITEM-300: ROLL CALL

Clerk Maland called the roll:

- (1) Council Member Peters-present
- (2) Council Member Faulconer-present
- (3) Council Member Atkins-present
- (4) Council Member Young-not present
- (5) Council Member Maienschein-present
- (6) Council Member Frye-present
- (7) Council Member Madaffer-present
- (8) Council Member Hueso-present

NON-AGENDA COMMENT:

PUBLIC COMMENT-1:

Don Stillwell commented on prayer and the flag salute.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:31 a.m. – 10:33 a.m.)

**Minutes of the Council of the City of San Diego  
for the Regular Meeting of Tuesday, March 25, 2008**

**Page 3**

**PUBLIC COMMENT-2:**

Nancelle Lauffer commented on the homeless.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:33 a.m. - 10:36 a.m.)

**PUBLIC COMMENT-3:**

Dorothy Lazenby commented on the handicapped in San Diego.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:36 a.m. - 10:39 a.m.)

**PUBLIC COMMENT-4:**

Homer Barrs commented on Mission Valley Village.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:39 a.m. - 10:41 a.m.)

**PUBLIC COMMENT-5:**

Ron Boshun commented on the actions of Council.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:41 a.m. - 10:44 a.m.)



**Minutes of the Council of the City of San Diego  
for the Regular Meeting of Tuesday, March 25, 2008**

**Page 4**

**PUBLIC COMMENT-6:**

Phil Hart commented on auditing.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:44 a.m. - 10:47 a.m.)

**PUBLIC COMMENT-7:**

Martin Mosier commented on La Jolla Parking.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:47 a.m. - 10:50 a.m.)

**PUBLIC COMMENT-8:**

Izean Rim, Jr., commented on public safety.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:51 a.m. - 10:53 a.m.)

**PUBLIC COMMENT-9:**

Thomas Glasser commented on lead paint.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:53 a.m. - 10:56 a.m.)

**Minutes of the Council of the City of San Diego  
for the Regular Meeting of Tuesday, March 25, 2008**

**Page 5**

**PUBLIC COMMENT-10:**

Katheryn.Rhodes commented on the Mills Act Historic Designation.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:56 a.m. - 10:59 a.m.)

**PUBLIC COMMENT-11:**

Milly Strodtman commented on the military.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:59 a.m. – 11:01 a.m.)

**PUBLIC COMMENT-12:**

Elinor Rector commented on City Elections.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 11:05 a.m. - 11:08 a.m.)

**PUBLIC COMMENT-13:**

David Ross commented on displaced veterans in San Diego.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 11:08 a.m. - 11:11 a.m.)

**Minutes of the Council of the City of San Diego  
for the Regular Meeting of Tuesday, March 25, 2008**

**Page 6**

**COUNCIL COMMENT:**

**COUNCIL COMMENT-1:**

Council President Peters recognized a City employee, Ann Hoppe who rescued a hiker last weekend.

FILE LOCATION: MINUTES

COUNCIL ACTION: (Time duration: 10:24 a.m. – 10:25 a.m.)

**INDEPENDENT BUDGET ANALYST COMMENT:**

None.

**CITY ATTORNEY COMMENT:**

Karen Heumann introduced her son and a 10<sup>th</sup> grade foreign exchange student from Germany.

FILE LOCATION: MINUTES

COUNCIL ACTION: (Time duration: 10:23 a.m. – 10:24 a.m.)

Minutes of the Council of the City of San Diego  
for the Regular Meeting of Tuesday, March 25, 2008

Page 7

ITEM-30: Approval of Council Minutes.

**TODAY'S ACTION IS:**

APPROVED

Approval of Council Minutes for the meetings of:

02/04/2008  
02/05/2008  
02/11/2008 - Adjourned  
02/12/2008 - Adjourned  
02/18/2008 - Adjourned  
02/19/2008  
02/25/2008  
02/26/2008

FILE LOCATION: MINUTES

COUNCIL ACTION: (Time duration: 10:10 a.m. – 10:10 a.m.)

MOTION BY ATKINS TO APPROVE. Second by Madaffer. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-not present, Maienschein-yea, Frye-yea, Madaffer-yea, Hueso-yea.

ITEM-31: Sue Palmer Day.

**COUNCILMEMBER ATKINS' RECOMMENDATION:**

Adopt the following resolution:

(R-2008-669) ADOPTED AS RESOLUTION R-303501

Commending Sue Palmer for her recent musical successes;

Proclaiming March 25, 2008, to be "Sue Palmer Day" in the City of San Diego.

Minutes of the Council of the City of San Diego  
for the Regular Meeting of Tuesday, March 25, 2008

Page 8

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:10 a.m. – 10:16 a.m.)

MOTION BY ATKINS TO ADOPT. Second by Frye. Passed by the following vote:  
Peters-yea, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea,  
Madaffer-yea, Hueso-yea.

ITEM-32: San Diego Cesar E. Chavez Commemoration Committee Day.

**COUNCILMEMBER YOUNG'S RECOMMENDATION:**

Adopt the following resolution:

(R-2008-722) ADOPTED AS RESOLUTION R-303502

Proclaiming March 25, 2008, to be "San Diego Cesar E. Chavez Commemoration  
Committee Day" for its goals and achievement in the community.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:16 a.m. – 10:22 a.m.)

MOTION BY YOUNG TO ADOPT. Second by Atkins. Passed by the following vote:  
Peters-yea, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea,  
Madaffer-yea, Hueso-yea.

ITEM-50: General Plan Update and Land Development Code Amendments. Proposed  
Citywide comprehensive update to the General Plan and introduce amendments to  
the Land Development Code as they pertain to the deletion from the General Plan  
of the Tier system (Urbanized, Planned Urbanizing, and Future Urbanizing) and  
the land use plan amendment initiation process. (Citywide.)

(See Report to the City Council No. 07-206; PEIR Project No. 104495; General  
Plan, Public Hearing Draft, September 2007; Report to Council No. 08-019 not  
available at the Committee; memorandum from Council President Peters dated

**Minutes of the Council of the City of San Diego  
for the Regular Meeting of Tuesday, March 25, 2008**

**Page 9**

3/10/2008; memorandum from Council President Peters and Councilmember Young dated 3/7/2008; and Independent Budget Analyst Report No. 08-23.)

**CITY COUNCIL'S RECOMMENDATION:**

Adopt the following ordinance which was introduced on 3/10/2008, Item 200, Subitem C. (Council voted 7-0. Councilmember Madaffer not present):

(O-2008-114 Cor. Copy) ADOPTED AS ORDINANCE O-19734 (New Series)

Amending Chapter 11, Article 3 by amending Section 113.0103; Amending Chapter 12, Articles 2, 3, and 5 by repealing Sections 122.0103, 122.0104, 123.0104, and 125.0442; Amending Chapter 12, Article 6 by amending Sections 126.0602 and 126.0604; Amending Chapter 13, Article 1 by adding Section 131.0105 and figure 131-01A, and by amending Sections 131.0240, 131.0340, 131.0403; And amending Chapter 14, Articles 1-4 by amending Sections 141.0312, 141.0313, 141.0403, 141.0407, 141.0411, 141.0412, 141.0413, 141.0504, 141.0605, 141.0608, 141.0618, 141.0625, 141.0902, 142.0505, 142.0525, 142.0535, 142.0670, 142.1303, 143.0115, 143.0402, 143.0420, 143.0430, 143.0440, 143.0450, 143.0915, 143.0213, 144.0206 of the San Diego Municipal Code and the Local Coastal Program, all to implement the Comprehensive 2008 General Plan Update.

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 5:09 p.m. – 5:25 p.m.)

MOTION BY MADAFFER TO DISPENSE WITH THE READING AND ADOPT THE ORDINANCE. Second by Atkins. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Hueso-not present.

- \* ITEM-51: Adoption of the 2007 California Building Code & associated codes with local amendments, approval of the proposed changes to the Municipal Code, necessary to adopt State mandated 2007 California building standards and, necessary due to local geological, climatic and topographical conditions. (Citywide.)

**Minutes of the Council of the City of San Diego  
for the Regular Meeting of Tuesday, March 25, 2008**

**Page 10**

(See Report to the City Council No. 08-025/Report to the Planning Commission No. PC-07-163.)

**CITY COUNCIL'S RECOMMENDATION:**

Adopt the following ordinances which were introduced on 3/4/2008, Item 338. (Council voted 8-0):

Subitem-A: (O-2008-96 Cor. Copy 2)      ADOPTED AS ORDINANCE O-19726  
(New Series)

Amending Chapter 14, Article 5, of the San Diego Municipal Code by amending Division 1 Sections 145.0101, 145.0102, 145.0103, 145.0104, 145.0105, 145.0106, 145.0107 and adding a new Section 145.0108; by adding New Divisions 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, and 38; by retitling and amending Division 2, by repealing current Section 145.0201, by moving, renumbering and amending Sections 145.0202, 145.0203, 145.0204, 145.0205, 145.0206 and 145.0207 to new Divisions 15, 18, 29, 32, 33 and 34 respectively and adding New Sections 145.0201 and 145.0202; by retitling and amending Division 3 by moving, renumbering and amending current Sections 145.0301, 145.0302 and 145.0303 to Division 31 and by adding a new Section 145.0301 and repealing Section 145.0304; by moving, renumbering and amending current Division 4, Sections 145.0401, 145.0402, 145.0403, 145.0404, 145.0405, 145.0406, 145.0407, 145.0408, 145.0409, 145.0410, 145.0411, 145.0412, 145.0413, 145.0414, 145.0415, 145.0416, 145.0417, 145.0418, 145.0420, 145.0421, 145.0422, 145.0423, 145.0424, 145.0425, 145.0426 and 145.0427 to new Division 37, repealing Section 145.0419, and adding a new Division 4, Section 145.0401; by moving, renumbering and amending current Division 5, Sections 145.0501, 145.0502, 145.0503, 145.0504, and 145.0505 to new Division 38, and adding new Division 5, Section 145.0501; by adding new Division 6, Section 145.0601; by adding new Division 7, Section 145.0701; by adding new Division 8, Section 145.0801; by adding new Division 9, Section 145.0901; by adding new Division 10, Section 145.1001; by adding new Division 11, Section 145.1101; by adding new Division 12, Section 145.1201; by adding new Division 13, Section 145.1301; by adding new Division 14, Section 145.1401; by adding new Division 15, Sections 145.1501 and 145.1505, by incorporating current Section 145.0202 into new Sections 145.1507, and 145.1510; by adding new Division 16, Sections 145.1601 AND 145.1613; by adding new Division 17, Sections 145.1701 and 145.1705; by adding new Division 18, Section 145.1801, by renumbering and

amending Section 145.0203 to 145.1802, and adding new Section 145.1805; by adding new Division 19, Sections 145.1901 and 145.1908; by adding new Division 20, Section 145.2001; by adding new Division 21, Section 145.2101; by adding new Division 22, Section 145.2201; by adding new Division 23, Section 145.2301; by adding new Division 24, Section 145.2401; by adding new Division 25, Section 145.2501; by adding new Division 26, Section 145.2601; by adding new Division 27, Section 145.2701; by adding new Division 28, Section 145.2801; by adding new Division 29, by renumbering and amending Section 145.0204 to 145.2901; by adding new Division 30, Section 145.3001; by adding new Division 31, Section 145.3101; by renumbering and amending current Section 145.0301 to 145.3109 and incorporating current Sections 145.0302 and 145.0303 into Section 145.3109, by renumbering and amending current Sections 145.0305 and 145.0306 to 145.3110 and 145.3111 respectively; by adding new Division 32, Section 145.3201, and renumbering and amending current Section 145.0205 to Section 145.3203; by adding new Division 33, by incorporating and amending current Section 145.0206 into new Sections 145.3301 and Section 145.3303; by adding new Division 34, by incorporating and amending current Section 145.0207 into new Sections 145.3401 and 145.3403; by adding new Division 35, Section 145.3501; by adding new Division 36 and reserving new Section 145.3601; by renumbering and amending Division 4, Sections 145.0401, 145.0402, 145.0403, 145.0404, 145.0405, 145.0406, 145.0407, 145.0408, 145.0409, 145.0410, 145.0411, 145.0412, 145.0413, 145.0415, 145.0416, 145.0417, 145.0418, 145.0420, 145.0421, 145.0422, 145.0423, 145.0424, 145.0425, 145.0426, and 145.0427 to new Sections 145.3701, 145.3702, 145.3703, 145.3704, 145.3705, 145.3706, 145.3707, 145.3708, 145.3709, 145.3710, 145.3711, 145.3712, 145.3713, 145.3714, 145.3715, 145.3716, 145.3717, 145.3718, 145.3719, 145.3720, 145.3721, 145.3722, 145.3723, 145.3724, 145.3725, and 145.3726, respectively, by renumbering Division 5, Sections 145.0501, 145.0502, 145.0503, 145.0504, and 145.0505 to new Division 38, Sections 145.3801, 145.3802, 145.3803, 145.3804, and 145.3805, respectively; and adopting the 2007 California Building Code and Associated Municipal Code Amendments.

Subitem-B: (O-2008-97 Cor. Copy)

ADOPTED AS ORDINANCE O-19727  
(New Series)

Amending Chapter 12, Article 9, Division 3, of the San Diego Municipal Code by amending Sections 129.0303; by amending Chapter 14, Article 6, Division 1, by amending Sections 146.0103, 146.0104, 146.0105, and 146.0106; by amending Chapter 14, Article 6, Division 2, by amending Sections 146.0202, 146.0204, and



146.0207; and adopting the 2007 California Electrical Code and Associated Municipal Code Amendments.

Subitem-C: (O-2008-98 Cor. Copy 2)      ADOPTED AS ORDINANCE O-19728  
(New Series)

Amending Chapter 5, Article 5, of the San Diego Municipal Code, by amending Division 1 by amending Sections 55.0101, by adding Section 55.0102, amending Section 55.0103, and adding Section 55.0104; by adding a new Division 2, Section 55.0201; by adding a new Division 3, Section 55.0301, and 55.0304; by adding a new Division 4, Section 55.0401, incorporating current Section 55.2501, Subsection 2501.18; by adding a new Division 5, Section 55.0501, incorporating current Section 55.0901, Subsection 901.4.3, and current Section 55.0903, Subsection 903.2; by adding a new Division 6, Section 55.0601; by adding a new Division 7, Section 55.0701, by adding a new Division 8, Section 55.0801; by amending Division 9, by amending Section 55.0901, by repealing Section 55.0902, and amending Section 55.0903, incorporating current section 1003, Subsections 1003.2.11, 1003.2.11.1, 1003.2.11.2, 1003.2.11.3, 1003.2.11.4, 1003.2.11.5, 1003.2.11.6, 1003.2.11.7, and 1003.2.11.8; by amending Division 10, by amending Section 55.1001; by adding a new Division 11, Section 55.1101; by adding a new Division 12, Section 55.1201; by adding a new Division 13, Section 55.1301; by adding a new Division 14, Section 55.1401, by adding a new Division 15, Section 55.1501; by adding a new Division 16, Section 55.1601; by adding a new Division 17, Section 55.1701; by adding a new Division 18, Section 55.1801; by adding a new Division 19, Section 55.1901; by adding a new Division 20, Section 55.2001; by adding a new Division 21, Section 55.2101; by adding a new Division 22, Section 55.2201; by adding a new Division 23, Section 55.2301; by adding a new Division 24, Section 55.2401; by amending Division 25 by amending Section 55.2501; by adding a new Division 26, Section 55.2601; by adding a new Division 27, Section 55.2701, incorporating current Sections 55.9102, 55.9103, 55.9104 and 55.9105; by adding a new Division 28, Section 55.2801; by adding a new Division 29, Section 55.2901; by adding a new Division 30, Section 55.3001; by adding a new Division 31, Section 55.3101; by adding a new Division 32, Section 55.3201; by adding a new Division 33, Section 55.3301, incorporating current Sections 7701.1, through 7701.2.3, 7701.4, and 7701.5; by adding a new Division 34, Section 55.3401; by adding a new Division 35, Section 55.3501; by adding a new Division 36, Section 55.3601; by adding a new Division 37, Section 55.3701; by adding a new Division 38, Section 55.3801; by adding a new Division 39, Section 55.3901; by adding a new Division 40, Section 55.4001; by adding a new Division 41, Section 55.4101; by adding a new

Division 42, Section 55.4201; by adding a new Division 43, Section 55.4301; by adding a new Division 44, Section 55.4401; by adding a new Division 45, Section 55.4501; by adding a new Division 46, Section 55.4601; by adding a new Division 47, Section 55.4701; by adding a new Division 48, Sections 55.4801 and 55.4808; by adding a new Division 48, Section 55.4901; and repealing Divisions 77, 78, 81, 91, and 92; and adopting the 2007 California Fire Code and Associated Municipal Code Amendments.

Subitem-D: (O-2008-99 Cor. Copy)      ADOPTED AS ORDINANCE O-19729  
(New Series)

Amending Chapter 14 of the San Diego Municipal Code by adding a new Article 8, Division 1, Sections 148.0101, 148.0102, 148.0103, 148.0104, and 148.0105, and new Division 2, Section 148.0201; and adopting the 2007 California Mechanical Code and Associated Municipal Code Amendments.

Subitem-E: (O-2008-100 Cor. Copy)      ADOPTED AS ORDINANCE O-19730  
(New Series)

Amending Chapter 12, Article 9, Division 4, of the San Diego Municipal Code by amending Section 129.0403, by amending Chapter 14, Article 7, Division 1, by retitling Article and Division and amending Sections 147.0101, 147.0102, and 147.0103, by adding new Sections 147.0104, 147.0105, 147.0106, and by renumbering and amending Sections 145.0104 to 147.0107; by amending Chapter 14, Article 7, Division 2, by adding Section 147.0204; and adopting the 2007 California Plumbing Code and Associated Municipal Code Amendments.

FILE LOCATION:                      MEET

COUNCIL ACTION:                      (Time duration: 10:25 a.m. – 10:31 a.m.)

CONSENT MOTION BY MADAFFER TO DISPENSE WITH THE READING AND ADOPT THE ORDINANCES. Second by Atkins. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Hueso-yea.

**Minutes of the Council of the City of San Diego  
for the Regular Meeting of Tuesday, March 25, 2008**

**Page 14**

ITEM-52: Second Amendment to the Agreement with Martinez + Cutri Corporation for Professional Services for the Logan Heights Branch Library. (Southeastern San Diego Community Area. District 8.)

**CITY COUNCIL'S RECOMMENDATION:**

Adopt the following ordinance which was introduced on 3/11/2008, Item 60, Subitem A. (Council voted 6-0. Council President Peters and Council President Pro Tem Madaffer not present):

Subitem-A: (O-2008-107). RETURNED TO MAYOR

Authorizing the Mayor, or his designee, to execute, for and on behalf of said City, a Second Amendment to the Agreement with Martinez + Cutri Corporation for professional design services for the Logan Heights Branch Library (Project) in an additional amount not to exceed \$165,000, for a total contract amount of \$915,000, provided that the City Auditor and Comptroller first furnishes a certificate demonstrating that the funds necessary for expenditure are, or will be, on deposit with the City Treasurer, and under the terms and conditions set forth in the Second Amendment to the Agreement;

Authorizing the additional expenditure of \$165,000 from CIP-35-101.0, Logan Heights Branch Library, Fund No. 18522, Section 108 Logan Heights Library, for the Second Amendment to the Agreement with Martinez + Cutri Corporation for the Project;

Authorizing the City Auditor and Comptroller, upon advice from the administrating department, to transfer excess funds, if any, to the appropriate reserve;

Declaring that this activity is not subject to the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines Section 15378(c). This activity is a subsequent discretionary approval adequately covered under the Finding of No Significant Impact/Negative Declaration No. 42-0267 (Logan Heights Branch Library). The activity is adequately addressed in the environmental document and there are no changes in circumstance, additional information, or project changes to warrant additional environmental review pursuant to CEQA Guidelines Section 15162.

**NOTE: 6 votes required pursuant to Section 99 of the City Charter.**

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 10:28 a.m. – 10:29 a.m.)

MOTION BY COMMON CONSENT TO RETURN TO MAYOR. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Hueso-yea.

- \* ITEM-53: Power Purchase Agreement with Linde Merchant Production Inc. for Renewable Biogas Fueled On-Site Power Generation; and Site Lease Agreement for Use of Land at the South Bay Water Reclamation Plant. (San Ysidro Planning and Development Group. District 8.)

(See Metropolitan Wastewater Department's Executive Summary Sheet dated 2/4/2008; and Metropolitan Wastewater Department's 2/27/2008 PowerPoint.)

**CITY COUNCIL'S RECOMMENDATION:**

Adopt the following ordinance which was introduced on 3/11/2008, Item 52. (Council voted 6-0. Council President Peters and Council President Pro Tem Madaffer not present):

(O-2008-118) ADOPTED AS ORDINANCE O-19731 (New Series)

Authorizing the Mayor, or his designee, to execute, for and on behalf of the City, a 20-Year Agreement with Linde Merchant Production, Inc., under terms and conditions set forth in the Power Purchase Agreement for Renewable Biogas Fueled On-Site Power Generation;

Authorizing the Mayor, or his designee, to execute a site Lease Agreement with Linde Merchant Production, Inc., under the terms and conditions set forth in the South Bay Water Reclamation Plant Fuel Cell Site Lease;

Declaring that this activity is exempt from the California Environmental Quality Act pursuant to CEQA Guidelines Sections 15060(c)(3) and 15301 because it is not a project and it consists of the operation, repair, maintenance, permitting, leasing, licensing, or minor alteration of existing public facilities.

**NOTE:** 6 votes required pursuant to Section 99 of the City Charter.

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 10:25 a.m. – 10:31 a.m.)

CONSENT MOTION BY MADAFFER TO DISPENSE WITH THE READING AND ADOPT THE ORDINANCE. Second by Atkins. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Hueso-yea.

ITEM-54: Lead Hazard Prevention and Control Ordinance.

(See Report to the City Council No. 08-029 and City Manager's Report No. 04-178.)

**CITY COUNCIL'S RECOMMENDATION:**

Adopt the following ordinances which were introduced on 3/11/2008, Item 331, Subitems A and B. (Council voted 7-0. Councilmember Madaffer not present):

Subitem-A: (O-2008-91) ADOPTED AS ORDINANCE O-19732  
(New Series)

Amending Chapter 5, Article 4, Division 10 of the San Diego Municipal Code by renaming Division 10; by amending Sections 54.1001, 54.1002, 54.1003, 54.1004, 54.1005, and 54.1006; and by adding Sections 54.1007, 54.1008, 54.1009, 54.1010, 54.1011, 54.1012, 54.1013, 54.1014, and 54.1015; all relating to lead hazard prevention and control; and finding as to environmental impact.

This ordinance expands upon the current regulations in the Municipal Code pertaining to the prevention and abatement of lead hazards. The overall goal of the proposed lead ordinance is to eventually eliminate lead hazards (due mainly to lead-based paint) in various structures including, but not limited to, housing. The ordinance attempts to further this goal by doing the following: (1) declaring lead hazards a public nuisance; (2) making it unlawful to create or maintain a lead hazard; (3) requiring the use of lead safe work practices while engaging in activities which could disturb lead-based paint; (4) establishing a rebuttable

presumption that paint on housing constructed prior to 1979 is lead-based paint; (5) imposing a duty on owners of housing to correct identified lead hazards after notice of the hazard; (6) providing for occupant relocation during lead hazard remediation; (7) requiring a visual inspection for and correction of deteriorated paint in rental housing, constructed prior to 1979, prior to re-occupancy; (8) imposing a duty on home improvement stores to maintain pamphlets and post a warning sign regarding the dangers of lead hazards when disturbing paint on housing constructed prior to 1979; (9) requiring child care centers to require parents to provide a doctor's note that the child has been screened for lead poisoning, unless the parent has a religious objection to the screening; and (10) providing for enforcement of the ordinance provisions and cost recovery.

Subitem-B: (O-2008-109)

ADOPTED AS ORDINANCE O-19733  
(New Series)

Amending Chapter 1, Article 2, Division 2 of the San Diego Municipal Code by amending Section 12.0204, relating to Judicial Abatement; and finding no environmental impact. This ordinance adds a subsection to the Municipal Code clarifying that it is unlawful to maintain or allow the existence of a public nuisance.

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 11:14 a.m. – 11:22 a.m.)

MOTION BY FRYE TO DISPENSE WITH THE READING AND ADOPT THE ORDINANCE. Second by Atkins. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Hueso-yea.

ITEM-55: Amending the San Diego Municipal Code Relating to Regulations Involving the Operations of Cardrooms Wagering Limit at "No Limit" and Number of Cardroom Tables.

(See Report from the City Attorney dated 11/23/2007.)

**CITY COUNCIL'S RECOMMENDATION:**

Adopt the ordinance which was introduced as amended on 1/22/2008, Item 330.  
(Council voted 8-0):

(O-2008-87 Rev) (Cor. Copy) ADOPTED AS ORDINANCE O-19735  
(New Series)

Amending Chapter 3, Article 3, Division 39, of the San Diego Municipal Code by amending Sections 33.3911 and 33.3923, relating to regulations involving the Operations of Cardrooms. The City Council desires to amend the San Diego Municipal Code Section 33.3923 to permit Cardrooms to have no limit wagering at each card game. The Council also now desires to amend the San Diego Municipal Code Section 33.3911 to increase the number of tables for the playing of cards. Per the Business and Professions Code Section 19961.1, the California Department of Justice, Bureau of Gambling Control has reviewed and approved these proposed ordinance changes.

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 2:08 p.m. – 2:15 p.m.)

MOTION BY MADAFFER TO DISPENSE WITH THE READING AND ADOPT THE ORDINANCE. Second by Atkins. Passed by the following vote: Peters-nay, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-nay, Frye-nay, Madaffer-yea, Hueso-yea.

\* ITEM-56: Amending the San Diego Municipal Code Regarding Ethics Ordinance.

(See memorandum from Stacey Fulhorst dated 2/15/2008.)

**TODAY'S ACTION IS:**

Introduce the following ordinance:

(O-2008-121)

INTRODUCED, TO BE ADOPTED ON  
TUESDAY, APRIL 15, 2008

Introduction of an Ordinance amending Chapter 2, Article 7, Division 35 of the San Diego Municipal Code, by amending Section 27.3551, relating to the City of San Diego Ethics Ordinance. The Ethics Commission believes that there is no public interest served by applying the prohibitions of Section 27.3551 to a City Official's prospective future employment with another public agency, and has therefore recommended amending the Ethics Ordinance to expressly exclude public agencies from the scope of the prohibitions in Section 27.3551.

**RULES, OPEN GOVERNMENT, AND INTERGOVERNMENTAL RELATIONS  
COMMITTEE'S RECOMMENDATION:**

On 2/27/2008, Rules voted 5 to 0 to adopt and move this item to the full City Council. (Councilmembers Peters, Young, Frye, Madaffer, and Hueso voted yea.)

**SUPPORTING INFORMATION:**

The City's Ethics Ordinance includes a provision concerning "future employment" that prohibits City Officials from participating in a decision that involves the interests of a prospective employer. SDMC § 27.3551. Unlike the other provisions in the Ethics Ordinance that address disclosure of income, conflicts of interest, and post-employment restrictions, this provision does not include an exemption for public agencies. As a result, the ordinance could be interpreted to prohibit a City Official from participating in any decisions involving, for example, the interests of the County of San Diego if the Official were pursuing a job with the County. It is relevant to note that the provision concerning future employment is based on a similar provision in state law, which includes an exemption for prospective employment with a state, local, and federal government agency. FPPC Regulation 18747.

The Ethics Commission considered this issue and concluded that it had originally intended to include an exemption for public agencies when the ordinance was first introduced and adopted in 2002. Accordingly, the Commission recommends amending the Ethics Ordinance as reflected in the Ordinance and Strike-Out Ordinance to include an exemption for public agencies in the future employment provision.

**FISCAL CONSIDERATIONS:** None.

**PREVIOUS COUNCIL and/or COMMITTEE ACTION:**

Approved by the Rules Committee on February 27, 2008.

**COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:**

Public discussion at Ethics Commission meeting on February 14, 2008.



KEY STAKEHOLDERS AND PROJECTED IMPACTS:

City Officials (elected officials and their staffs, unclassified City employees, members of City boards and commissions required to file Statements of Economic Interests, and consultants required to file Statements of Economic Interests).

Fulhorst

FILE LOCATION: NONE

COUNCIL ACTION: (Time duration: 10:25 a.m. – 10:31 a.m.)

CONSENT MOTION BY MADAFFER TO INTRODUCE. Second by Atkins. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Hueso-yea.

- \* ITEM-57: Amendment No. 2 to the Consultant Agreement with Kennedy/Jenks for Upgrades to Specific Canyon Trunk Sewers Group 2. (Mira Mesa, San Diego County, Scripps Miramar Ranch, and Navajo Community Areas. Districts 5 and 7.)

(See Metropolitan Wastewater Department's 1/7/2008 1472 Request for Action.)

TODAY'S ACTION IS:

Introduce the following ordinance:

(O-2008-108) INTRODUCED, TO BE ADOPTED ON TUESDAY,  
APRIL 15, 2008

Introduction of an Ordinance authorizing the Mayor, or his designee, to execute, for and on behalf of the City, a Second Amendment to the Agreement with Kennedy/Jenks Consultants, for a one-year time extension on the agreement, for the pre-design, design, and construction support in connection with the City's Specific Canyon Trunk Sewer Upgrades, and under terms and conditions set forth in Amendment No. 2;

Declaring that this activity is statutorily exempt from the California Environmental Quality Act pursuant to CEQA Guidelines Section 15262 because it involves only feasibility or planning studies for future action.

**NOTE:** 6 votes required pursuant to Section 99 of the City Charter.

**NATURAL RESOURCES AND CULTURE COMMITTEE'S RECOMMENDATION:**

On 2/27/08, NR&C voted 4 to 0 to approve. (Councilmembers Peters, Faulconer, Atkins, and Frye voted yea.)

**SUPPORTING INFORMATION:**

On September 9, 2002, the City entered into an Agreement with Kennedy/Jenks Consultants with Document Number RR-297031. The agreement, in the amount of \$2,351,534, included pre-design, design and construction support work associated with the Specific Canyon Trunk Sewers Group 2 project. Group 2 consists of trunk sewers at USIU, Lake Murray and Mission Village. On October 26, 2005, a "NO COST" Amendment No. 1 was filed in the Office of the City Clerk as Document No. C-13454, which revised an insurance provision to reflect industry practice.

There is no remaining work for Mission Village. The design is near completion for both Lake Murray and USIU and construction is scheduled for FY 2010 and FY 2011 respectively. The existing contract with Kennedy/Jenks is currently over five years and requires a time extension to complete the activities required for design completion.

This request is for a "NO COST" time extension for one (1) additional year from the expiration date of the existing contract. The contract expired on September 9, 2007. This amendment will enable Kennedy/Jenks Consultants to complete the design for the Lake Murray and USIU Trunk Sewer projects.

**EQUAL OPPORTUNITY CONTRACTING:**

Funding Agency:	City of San Diego
Goals:	15% Voluntary (MBE/WBE/DBE/DVBE/OBE)
Current Subconsultant Participation:	\$245,650 (WBE/DBE) - 15.3%
	\$297,089 (OBE) - 18.5%
Current Paid to Date Contract Total:	\$1,607,316
Other:	Workforce Report Submitted - based on the latest work force report a current Equal Opportunity Plan has been requested. Staff will monitor plan and adherence To Nondiscrimination Ordinance.

FISCAL CONSIDERATIONS: None.

PREVIOUS COUNCIL and/or COMMITTEE ACTION:

R-297031 authorized contract in the amount of \$2,351,534. This action was reviewed and approved by the Natural Resources and Culture Committee on February 27, 2008.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS: N/A

KEY STAKEHOLDERS & PROJECTED IMPACTS (if applicable):

Kennedy/Jenks Consultants

Ferrier/Barrett

FILE LOCATION: NONE

COUNCIL ACTION: (Time duration: 10:25 a.m. – 10:31 a.m.)

CONSENT MOTION BY MADAFFER TO INTRODUCE. Second by Atkins. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Hueso-yea.

\* ITEM-100: Inviting Bids for Pipeline Rehabilitation Phase G-I Project. (Citywide.)

(See Metropolitan Wastewater Department's 12/4/2007 Executive Summary Sheet.)

TODAY'S ACTION IS:

Adopt the following resolution:

(R-2008-554) ADOPTED AS RESOLUTION R-303503

Approving the plans and specifications for the Pipeline Rehabilitation Phase G- I Project, on Work Order No. 141381;

Authorizing the Mayor, or his designee, after advertising for bids in accordance with law, to award this contract to the lowest responsible and reliable bidder in an amount not to exceed \$9,327,511; provided that the City Auditor and Comptroller

furnishes one or more certificates demonstrating that the funds necessary for this expenditure under established contract funding phases are, or will be, on deposit in the City Treasury;

Authorizing the expenditure of an amount not to exceed \$11,193,887 from Fund No. 41506, CIP-46-050.0, Annual Allocation - Pipeline Rehabilitation, solely and exclusively, to provide funds for the above contract, contingency, and related costs; provided that the City Auditor and Comptroller furnishes one or more certificates demonstrating that the funds necessary for this expenditure under established contract funding phases are, or will be, on deposit in the City Treasury;

Authorizing the City Auditor and Comptroller to transfer excess budgeted funds, if any, to the appropriate reserves on advice from the administering department;

Declaring the above activity is categorically exempt from the California Environmental Quality Act pursuant to CEQA Guidelines Section 15301(b) as the repair of existing sewer facilities. (BID-K084245C)

**NATURAL RESOURCES AND CULTURE COMMITTEE'S RECOMMENDATION:**

On 2/27/2008, NR&C voted 4 to 0 to approve with direction that the Independent Budget Analyst produce a report prior to going to Council. (Councilmembers Peters, Faulconer, Atkins, and Frye voted yea.)

**SUPPORTING INFORMATION:**

The Metropolitan Wastewater Department (MWWD) is requesting authorization to advertise, bid, and award a contract to the lowest responsible bidder, for the Pipeline Rehabilitation Project Phase G-1. This contract is the fifth in a series of MWWD contracts to meet the EPA requirements to rehabilitate sewer pipeline.

MWWD has inspected and assessed aging sewer mains under a separate Closed Circuit Televising (CCTV) contract and identified the need to rehabilitate a large amount of deteriorated sewer mains. This project will rehabilitate approximately 20 miles of this pipe (2.58 miles Council District 1; 0.36 miles Council District 2; 1.68 miles Council District 3; 8.90 miles Council District 4; 0.18 miles Council District 5; 0.45 miles Council District 6; 6.03 miles Council District 7; and 0.30 miles Council District 8) ranging in size from 6-inch to 14-inch diameter. Predominantly, the pipeline rehabilitation will be accomplished by installing liners inside the pipe using trenchless construction methods. All service lateral connections will be sealed between the liner and the host pipe. Approximately 150 manholes will be rehabilitated,

some of which will require surface excavation. Approximately 78 end-of-line clean-outs will be installed to allow liner installation of sewer main that currently have plugged ends. All work will be located within existing City right-of-ways and easements. Work will be accomplished in various locations throughout the city.

This contract will help meet EPA requirements to reduce sewer spills while reducing maintenance costs and extending the service life of aging sewer mains. The use of trenchless technology is faster, less expensive, and less disruptive to the community than the excavation and replacement method.

**Equal Opportunity Contracting Program (EOCP)**

Equal Opportunity Goals - The project funding source/agency determines applicable EOC and/or subcontracting goals.

Funding Agency: City of San Diego

\*Mandatory Subcontractor Participation Goal: 11%

\*\*Advisory Participation Goals:

Disadvantaged Business Enterprise 4%

Disabled Veteran Business Enterprise 1%

Other Business Enterprise 6%

**\*\*Advisory Participation Goals:** These Disadvantaged Business Enterprise (DBE), Disabled Veteran Business Enterprise (DVBE) and Other Business Enterprise (OBE) participation levels are Advisory Only and do not constitute a basis for determination of non-compliance or disqualification.

**\*Mandatory Subcontractor Participation Goal:** This project is subject to the requirements of the Subcontracting Outreach Program (SCOPE). The City has incorporated a mandatory subcontractor participation goal to enhance competition and maximize subcontracting opportunities. Based on historical review of subcontractor usage on City projects and availability, the Mandatory Goal for this project is 11%. Failure to meet this subcontractor participation goal will cause a bid to be rejected as non-responsive.

Prevailing Wages: Due to the funding source and that this project is under \$10 million, Federal prevailing wages Do Not apply.

This project has been advertised in Voice and Viewpoint and La Prensa in addition to the Transcript.

FISCAL CONSIDERATIONS:

The total cost of this action is \$11,193,887 and is available in Fund 41506, CIP-46-050.0, Annual Allocation - Pipeline Rehabilitation, Phase G-1 project. The project costs may be bond reimbursed approximately 80% by current or future debt financings. An Auditor's Certificate will be issued prior to contract award.

PREVIOUS COUNCIL and/or COMMITTEE ACTION:

This item was reviewed and approved by Natural Resources & Culture Committee on February 27, 2008.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

Letters will be sent out to the community prior to the construction phase.

KEY STAKEHOLDERS & PROJECTED IMPACTS (if applicable): N/A

Bertch/Barrett

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 10:25 a.m. – 10:31 a.m.)

CONSENT MOTION BY MADAFFER TO ADOPT. Second by Atkins. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Hueso-yea.

\* ITEM-101: Two actions related to Inviting Bids for the Construction of Sewer and Water Group 684A. (City Heights Community Area. District 3.)

(See Engineering and Capital Projects Department's Executive Summary Sheet dated 1/2/2008.)

TODAY'S ACTIONS ARE:

Adopt the following resolutions:

Subitem-A: (R-2008-510)

ADOPTED AS RESOLUTION R-303504

Approving the plans and specifications for the construction of Sewer and Water Group 684A (Project) as advertised by Purchasing and Contracting Department on Work Order Nos. 174711/184711;

Authorizing the Mayor, or his designee, to establish contract funding phases and execute a contract with the lowest responsible and reliable bidder, provided that the City Auditor and Comptroller first furnishes one or more certificates demonstrating that the funds necessary for expenditure under established contract funding phases are, or will be, on deposit with the City Treasurer;

Authorizing the expenditure of an amount not to exceed \$5,463,898 from Sewer Fund 41506, CIP-44-001.0, Annual Allocation - Sewer Main Replacements, and \$1,305,895 from Water Fund 41500, CIP-73-083.0, Annual Allocation - Water Main Replacements, solely for the construction, contingency and Project related costs, provided that the City Auditor and Comptroller first furnishes one or more certificates certifying that the funds are, or will be, on deposit with the City Treasurer;

Authorizing the use of City Forces from Water Fund 41500, CIP-73-083.0 Annual Allocation - Water Main Replacement in an amount not to exceed \$140,000 for the construction of the Project;

Authorizing the City Auditor and Comptroller, upon advice from the administering department, to transfer excess budgeted funds, if any, to the appropriate reserves. (BID-K084078C)

Subitem-B: (R-2008-511)

ADOPTED AS RESOLUTION R-303505

Declaring that the Revised Mitigated Negative Declaration, LDR No. 41-0343, dated October 17, 2007 (Revised MND) for Sewer and Water Group 684A, [the Project] on file in the Office of the City Clerk, has been completed in compliance with the California Environmental Quality Act of 1970 (California Public Resources Code Section 21000 et seq.), as amended, and the State Guidelines thereto (California Code of Regulations Section 15000 et seq.);

Declaring that the MND reflects the independent judgment of the City of San Diego as Lead Agency and that the information contained in the report, together with any comments received during the public review process, has been reviewed and considered by this Council in connection with the approval of the Project;

Finding that revisions to the Project now mitigate potentially significant effects on the environment previously identified in the Initial Study and therefore, approving said Project 41-0343 Revised MND;

Adopting the Mitigation Monitoring and Reporting Program, or alterations to implement the changes to the Project as required by this body in order to mitigate or avoid significant effects on the environment, pursuant to California Public Resources Code Section 21081.6;

Directing the City Clerk to file a Notice of Determination (NOD) with the Clerk of the Board of Supervisors for the County of San Diego regarding the above Project.

**NATURAL RESOURCES AND CULTURE COMMITTEE'S RECOMMENDATION:**

On 1/9/2008, NR&C voted 4 to 0 to forward this item to the full City Council. (Councilmembers Peters, Faulconer, Atkins, and Frye voted yea.)

**SUPPORTING INFORMATION:**

Sewer and Water Group 684A is part of the City of San Diego's Cast Iron (CI) Water Main Replacement Program as mandated by Department of Health Services Compliance Order No. 04-14-96-022 and the Sewer Main Replacement Program as mandated by the Environmental Protection Agency (EPA). This project is located within the Mid-City community of City Heights. This project consists of replacing approximately 10,895 linear feet (2.06 miles) of sewer mains and 2,166 linear feet (0.41 mile) of water mains.

It also includes installing curb ramps and street resurfacing. The streets affected by construction operations within this project are: El Cajon Boulevard, Orange Avenue, Polk Avenue, University Avenue, Wightman Avenue, Landis Street, Central Avenue, 41<sup>st</sup> Street, and Marlborough Avenue. Also, the project alignment is located within alleys basically east of I-15, west of Marlborough Avenue, south of El Cajon Boulevard, and north of Landis Street, as shown on the location map.

This project was approved by Council Resolution No. R-296127, adopted February 26, 2002, for the amount of \$3,104,590. The bids exceeded the engineer's estimate and were rejected. Furthermore, due to lack of funding, this project did not move forward. We are seeking approval to proceed with this project and to authorize an amount not to exceed \$6,769,793 for the entire execution of this project.



As indicated in the engineer's project cost estimate for the use of City Force Work to perform high-lining, cut and plug, and reconnecting the water mains, it is estimated to be more economical than if done by contract. In addition, the Department of Health Services (DHS), under the California Safe Drinking Water Act, requires certified operators to perform this type of work (on live water mains) to ensure the integrity of the water systems.

FISCAL CONSIDERATIONS:

The total estimated cost of this project is \$6,975,446. Funding of \$205,653 was previously authorized by Council (R-300460) for CCTV inspection costs related to Lee and Ro Consulting Engineers, Inc. Funding of \$5,463,898 is available from the enterprise funds in CIP-44-001.0, Annual Allocation - Sewer Main Replacements, Fund 41506, Sewer, and funding of \$1,305,895 is available from the enterprise funds in CIP-73-083.0, Annual Allocation - Water Main Replacements, Fund 41500, Water, for this purpose. The project costs for the sewer portion of \$5,669,551 may be bond reimbursed approximately 80% by current or future debt financings. The project cost for the water portion of this project is \$1,305,895. Water Department revenue is dedicated for this project; 80% of the CIP funding will be coming from an anticipated debt issuance in 2008. This project is scheduled to be phase funded in FY08 and FY09. No future funding is anticipated. The Auditor's Certificate will be provided prior to contract award.

PREVIOUS COUNCIL AND COMMITTEE ACTIONS:

Council approved this project on February 26, 2002 (R-296127, \$3,104,590). On May 22, 2005, Council approved CCTV inspection costs related to Lee and Ro Consulting Engineers, Inc. (R-300460, \$205,653.24). The Committee on Natural Resources and Culture on January 9, 2008, consent motion by Councilmember Faulconer, second by Council President Peters. Vote to approve 4-0.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

During design, Sewer and Water Group 684A was presented a total of five (5) times to the City Heights Community Group, Azalea Park Community Group, El Cajon Boulevard Business Improvement Association and Kensington/Talmadge Community Group, by the Engineering and Capital Projects Department. Once financing is approved, the community will be updated on the project. In addition, residents and businesses will be notified by mail by the City's Engineering and Capital Projects Department at least one (1) month before construction begins and again ten (10) days before construction begins by the Contractor through hand distribution of notices. Traffic control plans have been prepared for this project and will be implemented during construction.

KEY STAKEHOLDERS & PROJECTED IMPACTS (if applicable):

Residents in this area will encounter inconveniences during construction. After completion, residents will experience improved reliability of the water distribution and sewer collection systems.

EQUAL OPPORTUNITY CONTRACTING:

Funding Agency: City of San Diego - Prevailing wages do not apply to this contract.

Goals: 16% Mandatory Subcontractor Participation Goal, 5% Advisory Participation Goal Disadvantaged Business Enterprise (DBE), 1% Advisory Participation Goal Disabled Veteran Business Enterprise (DVBE), 10% Advisory Participation Goal Other Business Enterprise (OBE).

Other: Prior to award, a workforce report, and if necessary, an Equal Opportunity Plan shall be submitted. Staff will monitor the Plan and adherence to the Nondiscrimination Ordinance. EOC staff will evaluate the bidder's compliance with SCOPE. Failure to comply with SCOPE will lead to the bid being declared non-responsive. This contract will be advertised for bids in the San Diego Daily Transcript, the City of San Diego's website, and the E-Bid Board. In addition, once implemented, the Bidder Registration Program will notify registered participants of bid opportunities. Prior to implementation of the Bidder Registration Program, the City will notify trade associations and eligible firms via fax and/or e-mail.

Boekamp/Jarrell

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 10:25 a.m. – 10:31 a.m.)

CONSENT MOTION BY MADAFFER TO ADOPT. Second by Atkins. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Hueso-yea.

- \* ITEM-102: Two actions related to Inviting Bids for the Construction of Water Group 546.  
(Ocean Beach and Peninsula Community Areas. District 2.)

(See Executive Summary Sheet from the Engineering and Capital Projects  
Department dated 1/23/2008.)

**TODAY'S ACTIONS ARE:**

Adopt the following resolutions:

Subitem-A: (R-2008-739)                      ADOPTED AS RESOLUTION R-303506

Approving the plans and specifications for the construction of Water Group 546  
(Project) as advertised by Purchasing and Contracting Department on Work Order  
No. 185331;

Authorizing the Mayor, or his designee, to establish contract funding phases and  
execute a contract with the lowest responsible and reliable bidder, provided the  
City Auditor and Comptroller first furnishes one or more certificates  
demonstrating that the funds necessary for expenditure under established contract  
funding phases are, or will be, on deposit with the City Treasurer;

Authorizing the expenditure of an amount not to exceed \$4,063,329 from Water  
Fund 41500, CIP-73-083.0, Annual Allocation - Water Main Replacement, solely  
for construction, contingency, and Project related costs, provided that the City  
Auditor and Comptroller first furnishes one or more certificates demonstrating  
that the funds are, or will be, on deposit with the City Treasurer;

Authorizing the use of City Forces in Water Fund 41500, CIP-73-083.0 Annual  
Allocation - Water Main Replacement for construction of the Project in an  
amount not to exceed \$398,979;

Authorizing the City Auditor and Comptroller upon advice from the administering  
department, to transfer excess funds, if any, to the appropriate reserves.  
BID-K084238C)

Subitem-B: (R-2008-740)                      ADOPTED AS RESOLUTION R-303507

Declaring that the Addendum to a Mitigated Negative Declaration, Project Nos.  
132158 and 132292, dated September 24, 2007 (Addendum MND) for Water

Group 546 (the Project) on file in the Office of the City Clerk, has been completed in compliance with the California Environmental Quality Act of 1970 (California Public Resources Code Section 21000 et seq.), as amended, and the State Guidelines thereto (California Code of Regulations Section 15000 et seq.);

Declaring the Addendum MND reflects the independent judgment of the City of San Diego as Lead Agency and that the information contained in the report, together with any comments received during the public review process, has been reviewed and considered by this Council in connection with the approval of the Project;

Finding that revisions to the Project now mitigate potentially significant effects on the environment previously identified in the Initial Study and therefore, approving said Project 132158 and 132292 Addendum MND;

Adopting the Mitigation Monitoring and Reporting Program, or alterations to implement the changes to the Project as required by this body in order to mitigate or avoid significant effects on the environment, pursuant to California Public Resources Code Section 21081.6;

Directing the City Clerk to file a Notice of Determination (NOD) with the Clerk of the Board of Supervisors for the County of San Diego regarding the above Project.

**NATURAL RESOURCES AND CULTURE COMMITTEE'S RECOMMENDATION:**

On 1/30/2008, NR&C voted 4 to 0 to approve. (Councilmembers Peters, Faulconer, Atkins, and Frye voted yea.)

**SUPPORTING INFORMATION:**

Water Group 546 is part of the City of San Diego's Cast Iron (CI) Water Main Replacement Program as mandated by the Department of Health Services Compliance Order No. 04-14-96-022 . The existing mains were installed in the 1929 and the replacement of these deteriorated water mains will provide the community with a safe and reliable water distribution.

This project is located in the Ocean Beach and Peninsula community areas, as shown on the project location map. It includes the replacement of 7,023 feet of 6 and 8 inch deteriorated cast iron water mains, fire hydrants and water services. Impacted streets will be resurfaced and new curb ramps will be installed. As indicated in the Engineering Project Cost Estimate for the use of

City Forces, it is estimated to be more economical than if done by the contractor. In addition, the Department of Health Services (DHS) under the California Safe Drinking Water Act requires certified operators to perform this type of work (work on live water mains) to ensure the integrity of the water systems.

EQUAL OPPORTUNITY CONTRACTING:

Funding Agency:	City of San Diego - Prevailing wages do not apply to this contract.
Goals:	11% Mandatory Subcontractor Participation Goal, 4% Advisory Participation Goal Disadvantaged Business Enterprise (DBE), 1% Advisory Participation Goal Disabled Veteran Business Enterprise (DVBE), 6% Advisory Participation Goal Other Business Enterprise (OBE)
Other:	Prior to award, a workforce report, and if necessary, an Equal Opportunity Plan shall be submitted. Staff will monitor the Plan and adherence to the Nondiscrimination Ordinance. EOC staff will evaluate the bidder's compliance with SCOPe. Failure to comply with SCOPe will lead to the bid being declared non-responsive. This contract will be advertised for bids in the San Diego Daily Transcript, the City of San Diego's website, and the E-Bid Board. In addition, once implemented, the Bidder Registration Program will notify registered participants of bid opportunities. Prior to implementation of the Bidder Registration Program, the City will notify trade associations and eligible firms via fax and/or e-mail.

FISCAL CONSIDERATIONS:

The total estimated cost of this project is \$4,063,329. Funding is available in the Enterprise Fund, CIP-73-083.0, Annual Allocation - Water Main Replacements, Fund 41500, Water, for this purpose.

Water Department revenue is dedicated for this project; 80% will be bond financed. This project will be funded in FY08 and FY09. No future funding is anticipated. The Auditor's Certificate will be provided prior to contract award.

PREVIOUS COUNCIL AND COMMITTEE ACTIONS:

The Committee on Natural Resources and Culture on January 30, 2008, consent motion by Councilmember Faulconer, second by Council President Peters. Vote to approve 4-0.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

During design, the Project Manager and Project Engineer attempted to contact the Ocean Beach and Peninsula Planning Board to arrange a site visit to discuss proposed project particularly the existing historic stamps. These attempts were done via e-mail and hard copy letters dated February 1, 2007, March 12, 2007, and April 24, 2007. No response was received. A recent attempt via registered letters was initiated on October 31, 2007. To date, no responses have been received. Residents and businesses will be notified by mail at least one (1) month before construction begins by the City's Engineering and Capital Projects Department and again ten (10) days before construction begins by the contractor through hand distribution of the notices. Traffic control plans have been prepared for this project and will be implemented during the construction operations.

KEY STAKEHOLDERS & PROJECTED IMPACTS (if applicable):

Residents will experience minor impacts during construction. After completion, residents will experience improved water distribution quality and reliability.

Boekamp/Jarrell

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 10:25 a.m. – 10:31 a.m.)

CONSENT MOTION BY MADAFFER TO ADOPT. Second by Atkins. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Hueso-yea.

- \* ITEM-103: Two actions related to Inviting Bids for the Construction of Sewer and Water Group 676. (Peninsula Community Area. District 2.)

(See Executive Summary Sheet from the Engineering and Capital Projects Department dated 1/2/2008.)

TODAY'S ACTION IS:

Adopt the following resolutions:

Subitem-A: (R-2008-547) ADOPTED AS RESOLUTION R-303508

Approving the plans and specifications for the construction of the Sewer and Water Group 676 (Project) as advertised by Purchasing and Contracting Department on Work Order Nos. 174371/183951;

Authorizing the Mayor or his designee, is authorized to establish contract funding phases and execute a contract with the lowest responsible and reliable bidder for the Project, provided that the City Auditor and Comptroller first furnishes one or more certificates demonstrating that the funds necessary for this expenditure under established contract funding phases are, or will be, on deposit with the City Treasurer;

Authorizing the expenditure of an amount not to exceed \$3,438,320 from Sewer Fund 41506, CIP-44-001.0, Annual Allocation Sewer - Main Replacement, and \$2,379,529 from Water Fund 41500, CIP-73-083.0 Annual Allocation - Water Main Replacements solely for the construction, contingency, and Project related costs, provided that the City Auditor and Comptroller first furnishes one or more certificates certifying that the funds are, or will be, on deposit with the City Treasurer;

Authorizing the expenditure of \$10,000 in property related costs from Sewer Fund 41506, CIP-44-001.0 Annual Allocation - Sewer Main Replacement;

Authorizing the use of City Forces from Sewer Fund 41506, CIP-44-001.0 Annual Allocation - Sewer Main Replacement in an amount not to exceed \$5,000, and from Water Fund 41500, CIP-73-083.0, Annual Allocation - Water Main Replacement in an amount not to exceed \$177,226 for the construction of the Project, for the total amount not to exceed \$182,226;

Authorizing the City Auditor and Comptroller, upon advice from the administering department, to transfer excess funds, if any, to the appropriate reserves. (BID- K083521C)

Subitem-B: (R-2008-548) ADOPTED AS RESOLUTION R-303509

Declaring that the Revised Final Mitigated Negative Declaration, Project Nos. 25339, 37219, 25516 and 20273, dated October 8, 2007 (Revised Final MND) for Sewer and Water Group 676 (the Project), has been completed in compliance with the California Environmental Quality Act of 1970 (California Public Resources

Code Section 21000 et seq.), as amended, and the State Guidelines thereto (California Code of Regulations Sections 15000 et seq.);

Declaring that the Revised Final MND reflects the independent judgment of the City of San Diego as Lead Agency, and that the information contained in the report, together with any comments received during the public review process, has been reviewed and considered by this Council in connection with the approval of the Project;

Finding that revisions to the Project now mitigate potentially significant effects on the environment previously identified in the Initial Study and therefore, approving said Project Nos. 25339, 37219, 25516 and 20273 Revised Final MND;

Adopting the Mitigation Monitoring and Reporting Program, or alterations to implement the changes to the Project as required by this body in order to mitigate or avoid significant effects on the environment, pursuant to California Public Resources Code Section 21081.6;

Directing the City Clerk to file a Notice of Determination (NOD) with the Clerk of the Board of Supervisors for the County of San Diego regarding the above Project.

**NATURAL RESOURCES AND CULTURE COMMITTEE'S RECOMMENDATION:**

On 1/9/2008, NR&C voted 4 to 0 to forward this item to the full City Council. (Councilmembers Peters, Faulconer, Atkins, and Frye voted yea.

**SUPPORTING INFORMATION:**

Sewer and Water Group 676 is part of a program established by the City of San Diego and the Department of Health Services (DHS) mandating the replacement of all cast iron water mains currently in service and the Sewer Main Replacement Program as mandated by the Environmental Protection Agency (EPA). This project is located in the Peninsula community area. This project consists of the replacement of approximately 5,484 linear feet of existing 8-inch sewer mains, rehabilitation of approximately 1,461 linear feet of existing 6-inch sewer mains, and the replacement of approximately 4,585 linear feet of existing 8-inch water mains and all other work and appurtenances. It also includes the installation of curb ramps and street resurfacing. The streets affected by construction operations within this project are: Hill St, Bangor St., Leroy St., Talbot St., San Antonio PL., Owen St., San Elijo, Qualtrough St., San Fernando St., and San Remo Way, as shown on the Location Map. Traffic control plans have been prepared for the project by the City's design consultant. Contractor will prepare traffic



control shop drawings for the other streets (where needed) and will implement them during construction after review and approval by the City.

As indicated in Engineer's Project Cost Estimate for the use of City Forces, it is estimated to be more economical than if done by contract. In addition, the Department of Health Services (DHS) under the California Safe Drinking Water Act requires certified operators to perform this type of work (work on live water mains) to ensure the integrity of the water system.

FISCAL CONSIDERATIONS:

The total estimated cost of this project is \$5,817,849. Funding of \$3,438,320 is available in CIP-44-001.0 Annual Allocation - Sewer Main Replacement, Fund 41506, Sewer, and funding of \$2,379,529 is available in CIP-73-830.0, Annual Allocation - Water Main Replacement, Fund 41500, Water, for this purpose.

The project cost for the sewer portion of \$3,438,320 may be bond reimbursed approximately 80% by current or future debt financing. The project cost for the water portion is \$2,379,529. Water Department revenue is dedicated for this project; 80% of the CIP funding will be coming from an anticipated debt issuance in 2008. This project is scheduled to be phase funded over FY 08 and FY 09. No future funding is anticipated. The Auditor's Certificate will be provided prior to contract award.

PREVIOUS COUNCIL AND COMMITTEE ACTIONS:

The Committee on Natural Resources and Culture on January 9, 2008, consent motion by Councilmember Faulconer, second by Council President Peters. Vote to approve 4-0.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

This project was presented to the Peninsula Community Planning Board in 2004. Another letter to update the community on the status of the Project was sent on August 9, 2006. In addition, residents and businesses will be notified at least one (1) month before construction begins by the City's Engineering and Capital Projects Department and again, ten (10) days before construction begins by the Contractor through hand distribution of notices.

KEY STAKEHOLDERS & PROJECTED IMPACTS (if applicable):

Residents in this area will encounter minor inconvenience during construction. After completion, residents will experience improved reliability of the water and sewer systems. Allied Geotechnical Engineering Company was authorized to perform examination and investigation of subsurface conditions including properties of soil, geologic hazard, soil contamination and potential groundwater. Katz Okitsu and Associates Engineering Company was authorized to prepare traffic control drawings.

EQUAL OPPORTUNITY CONTRACTING:

Funding Agency: City of San Diego - Prevailing wages do not apply to this contract.

Goals: 16 % Mandatory Subcontractor Participation Goal, 5% Advisory Participation Goal Disadvantaged Business Enterprise (DBE), 1% Advisory Participation Goal Disabled Veteran Business Enterprise (DVBE), 10% Advisory Participation Goal Other Business Enterprise (OBE).

Other: Prior to award, a workforce report, and if necessary, an Equal Opportunity Plan shall be submitted. Staff will monitor the Plan and adherence to the Nondiscrimination Ordinance. EOC staff will evaluate the bidder's compliance with SCOPE. Failure to comply with SCOPE will lead to the bid being declared non-responsive. This contract will be advertised for bids in the San Diego Daily Transcript, the City of San Diego's website, and the E-Bid Board. In addition, once implemented, the Bidder Registration Program will notify registered participants of bid opportunities. Prior to implementation of the Bidder Registration Program, the City will notify trade associations and eligible firms via fax and/or e-mail.

Boekamp/Jarrell

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 10:25 a.m. – 10:31 a.m.)

CONSENT MOTION BY MADAFFER TO ADOPT. Second by Atkins. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Hueso-yea.

\* ITEM-104: Authorizing Additional City Force Work and Related Costs for Sewer and Water Group 704. (Kensington and Talmadge Community Areas. District 3.)

(See Engineering and Capital Projects Department's 2/20/2008 Executive Summary Sheet.)

TODAY'S ACTION IS:

Adopt the following resolution:

(R-2008-731) ADOPTED AS RESOLUTION R-303510

Authorizing the additional expenditure of \$25,000 from Water Fund 41500, CIP-73-083.0 Annual Allocation - Water Main Replacement for use of City Force Work and related costs for Sewer and Water Group 704, contingent upon the City Auditor and Comptroller furnishing a certificate certifying that funds necessary for the expenditure are, or will be, on deposit with the City Treasurer;

Authorizing the additional use of City Force Work from Water Fund 41500, CIP-73-083.0 Annual Allocation - Water Main Replacement for the construction of Sewer and Water Group 704 for an additional amount not to exceed \$5,000;

Authorizing the City Auditor and Comptroller, upon advice from the administering department, to transfer excess budgeted funds, if any, to the appropriate reserves;

Declaring that the activity is covered by Mitigated Negative Declaration No. 41-0831, dated January 17, 2002. This activity is adequately addressed in the environmental document and there is no change in circumstance, additional information, or project changes to warrant additional environmental review. Because the prior environmental documents adequately covered this activity as part of the previously approved project, the activity is not a separate project for purposes of the California Environmental Quality Act (CEQA) review pursuant to CEQA Guidelines Sections 15060(c)(3) and 15378 (c).

**NATURAL RESOURCES AND CULTURE COMMITTEE'S RECOMMENDATION:**

On 2/27/2008, NR&C voted 4 to 0 to approve. (Councilmembers Peters, Faulconer, Atkins, and Frye voted yea.)

**SUPPORTING INFORMATION:**

This action is a housekeeping measure to conform to City Charter Article VII, Section 94 and Municipal Code Section 22.3105 for all expenditures exceeding \$100,000 and exceeding original Council authorization for City Force Work to be approved by City Council.

Sewer & Water Group 704 is requesting the approval of an additional amount not to exceed \$20,000 for engineering and related expenses and \$5,000 for City Force Work. The estimated hours for the highlining operation exceed the original estimated amount to accommodate necessary changes in the scope of work. Additionally, due to resurfacing time constraints, City

Forces completed tie-ins that were part of the construction contract. Contractor did credit The City of San Diego for not completing the tie-ins, and was incorporated in the decreasing Final Construction Change Order.

FISCAL CONSIDERATIONS:

The additional funding of \$25,000 is available in CIP-73-083.0, Annual Allocation - Water Main Replacements, Fund 41500, Water, for this purpose. Water Department revenue is dedicated for this project; 80% will be bond financed. No future funding is anticipated.

PREVIOUS COUNCIL COMMITTEE ACTION:

- The Committee on Natural Resources and Culture considered Sewer & Water Group 704 on May 28, 2003 and voted 5 to 0 to approve.
- On September 29, 2003, Council (R-298428) approved the expenditure of an amount not to exceed \$1,324,936 for this project. Of that amount, \$154,455 was approved for the use of City Force Work for the purpose of providing funds to temporarily cut and plug, make live connections of the water main and install valves and crosses; and Council (R-298429), The City of San Diego, as Lead Agency under CEQA, has prepared and completed a Mitigated Negative Declaration No. 41-0831 dated January 17, 2002 and a Mitigation, Monitoring and Reporting Program covering this activity. The Committee on Natural Resources and Culture on February 27, 2008, consent motion by Councilmember Atkins, second by Council President Peters. Vote to approve 4-0.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

No outreach for this action. Community Meeting was held and notifications mailed prior to the original construction of this project.

KEY STAKEHOLDERS & PROJECTED IMPACTS (if applicable):

The stakeholders are the City residents and businesses.

Boekamp/Jarrell

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 10:25 a.m. – 10:31 a.m.)

CONSENT MOTION BY MADAFFER TO ADOPT. Second by Atkins. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Hueso-yea.

ITEM-105: Consultant Agreement with RMC Water & Environment for North County Water Reclamation Plant Live Stream Discharge Feasibility Study Wet Weather Storage Facility Study. (University Community Area. District 1.)

(See Metropolitan Wastewater Department's 12/12/2007, Executive Summary Sheet.)

**TODAY'S ACTION IS:**

Adopt the following resolution:

(R-2008-582) CONTINUED TO TUESDAY, APRIL 29, 2008

Authorizing the Mayor, or his designee, to execute, for and on behalf of the City, an Agreement with RMC Water & Environment for professional consultant services in connection with the North City Water Reclamation Plant live stream discharge feasibility study, under the terms and conditions set forth in the Agreement;

Authorizing the expenditure of an amount not to exceed \$467,000 from Fund No. 41509, CIP-45-940.0, Wet Weather Storage Facility, solely and exclusively, to provide funds for the above Agreement;

Declaring that the above activity is not subject to the California Environmental Quality Act pursuant to CEQA Guidelines Sections 15060(c)(3) and 15262 because this activity is not a project and involves only feasibility or planning studies for possible future action.

**NATURAL RESOURCES AND CULTURE COMMITTEE'S RECOMMENDATION:**

On 2/27/2008, NR&C voted 4 to 0 to approve with direction that the Independent Budget Analyst produce a report prior to going to Council. (Councilmembers Peters, Faulconer, Atkins, and Frye voted yea.)

**SUPPORTING INFORMATION:**

The objective of this feasibility study is to investigate the possibility of discharging reclaimed water from the City of San Diego's North City Water Reclamation Plant (NCWRP) to live streams during peak wet weather periods and to provide sufficient data to support a National

Pollutant Discharge Elimination System (NPDES) permit application to the Regional Water Quality Control Board (RWQCB).

The study will be divided into two phases: Phase I will involve a consultation meeting with the RWQCB and a fair estimate on the possibility of the Board's approval of the NPDES permit and Phase II will involve collecting data and developing analyses necessary to support the permit application.

Reclaimed water from the 30-mgd NCWRP is distributed to irrigation and industrial customers within the northern portion of the City via a reclaimed water distribution system. During periods of wet weather, there is much less demand for reclaimed water and most NCWRP flows are discharged back into the sewer system for transport to the City's Point Loma Wastewater Treatment Plant, where it is retreated prior to discharge to the Pacific Ocean via the Point Loma Ocean Outfall. Additionally, during such periods of wet weather, total system-wide inflows to the Point Loma plant are increased as a result of storm water inflow and infiltration into the Metropolitan Sewer System. Therefore, MWWD seeks to evaluate the potential for discharge to a stream as a method of offloading its collection, pumping and treatment facilities during extreme wet weather events.

Evaluation of such discharge potential is a necessary component of MWWD's facility master planning. A NPDES permit allowing such a live stream discharge during the extreme wet weather events will allow the City to re-phase the Wet Weather Storage Project and defer the construction of a large holding tank by at least five years.

To accomplish this task, Purchasing and Contracting Department advertised for professional engineering services in September 2007. Only one proposal was received; the small turn-out was largely attributed to the special expertise required for this comprehensive feasibility study. The presentation and interview for the selection of the consultant was conducted in October 2007. The selection panel included a representative from the EOCP. RMC Water and Environment was selected per Council Policy 300-07 to complete the feasibility study based on their expertise and prior experiences with both year-round and emergency live stream discharge studies and projects.

EQUAL OPPORTUNITY CONTRACTING:

Funding Agency:	City of San Diego
Goals:	15% voluntary (MBE/WBE/DB E/DVBE/OBE)
Subconsultant Participation:	\$84,000 Other Firms (18%)
Other:	Work Force Report Submitted. RMC's local office has fewer than 15 employees and is therefore exempt from the employment category goals.

To support their Equal Opportunity Contracting commitment, as part of their outreach efforts, RMC sent a letter to San Diego Contracting Opportunities Center (SDCOC) inviting interested subconsultants to participate on the RMC team. SDCOC forwarded the letter to 68 contractors. RMC also attended the pre-proposal meeting held by the City in September 2007, to network with potential subcontractors. One of the RMC's subconsultants in this contract, Talavera & Richardson - 3% participation, is certified as a MBE by the County and City of San Francisco, but is not yet certified by the California Unified Certification Program.

FISCAL CONSIDERATIONS:

The total amount of this request is \$467,000. Funds are available from Sewer Fund 41509, CIP-45-940.0, Wet Weather Storage Facility. The project costs may be bond reimbursed approximately 80% by current or future debt financings.

PREVIOUS COUNCIL and/or COMMITTEE ACTION:

This item was reviewed and approved by the Natural Resources and Culture Committee on February 27, 2008.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS: N/A

KEY STAKEHOLDERS & PROJECTED IMPACTS (if applicable):

RMC Water and Environment

Ferrier/Barrett

Aud. Cert. 2800496.

FILE LOCATION: NONE

COUNCIL ACTION: (Time duration: 11:24 a.m. – 11:25 a.m.)

MOTION BY FRYE TO CONTINUE TO TUESDAY, APRIL 29, 2008, FOR FURTHER REVIEW. Second by Atkins. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Hueso-yea.

- \* ITEM-106: Contract Change Order No. 1 with American Asphalt South Inc. for Slurry Seal Group I FY 07. (Citywide.)

**STAFF'S RECOMMENDATION:**

Adopt the following resolution:

(R-2008-684)            ADOPTED AS RESOLUTION R-303511

Authorizing the Mayor, or his designee, to execute Change Order No. 1, issued in connection with the slurry seal contract between the City of San Diego and American Asphalt South, Inc., said contract having been filed with the City Clerk as Document No. RR-302530;

Authorizing the expenditure of an amount not to exceed \$1,021,614 from Street Division General Fund No. 100, solely and exclusively, to provide funds for this change order;

Authorizing the City Auditor and Comptroller to transfer excess budgeted funds, if any, to the appropriate reserves on advice of the administering department;

Declaring that the above is categorically exempt from the California Environmental Quality Act pursuant to CEQA Guidelines Section 15301(c), as the repair, maintenance, or minor alteration of existing streets, sidewalks, gutters, and similar facilities.

**STAFF SUPPORTING INFORMATION:**

On April 17, 2007, City Council Resolution R-302530 authorized the advertising and award of Slurry Seal Group I, FY07. \$5,711,352 was authorized for the construction contract, \$878,830 for Additive Alternate #1, \$142,784 for Construction Contingency, \$285,568 for project management costs, and \$299,795 for Construction Inspection costs, for a total project cost of \$7,318,329. At the time the original contract was awarded, funding restraints limited the award to strictly the base bid. The base bid portion of the contract was awarded to American Asphalt South, Inc. in the amount of \$5,738,521.08.

Since the Additive Alternate #1 was not awarded with the original contract, this additive alternate in the amount of \$878,830 must now be added by Contract Change Order #1. In addition, the approved construction contingency amount of \$142,784 will also be added to the contract by this change order to cover the costs of preparatory work prior to slurry sealing.



Contract Change Order # 1 will increase the total contract amount to \$ 6,760,135.08, and provide 13.6 miles of slurry seal.

EQUAL OPPORTUNITY CONTRACTING:

Initial EOC Analysis performed on: 09/26/07

Funding Agency: City of San Diego - Prevailing wages to do not apply to this contract (No State or Federal Funding sources).

Goals: 27% Mandatory Subcontractor Participation Goal, 9% Advisory Participation Goal Disadvantaged Business Enterprise (DBE), 1% Advisory Participation Goal Disabled Veteran Business Enterprise (DVBE), 17% Advisory Participation Goal Other Business Enterprise (OBE).

Other: Staff will continue to monitor adherence to the Nondiscrimination Ordinance and bidder's compliance with SCOPe. Failure to continue compliance with SCOPe for the duration of the contract may result in assessment of liquidated damages or withholding of retention. This language applies solely to Change Order #1 and outreach efforts are not applicable.

FISCAL CONSIDERATIONS:

Funding in the amount of \$1,021,614 from Street Division General Fund 100 has been approved with the original project budget of \$7,318,329. The AC# which encumbered the funding was 2700627.

PREVIOUS COUNCIL and/or COMMITTEE ACTION:

Resolution R-302530, adopted on April 17, 2007, authorized the advertising and award of this contract.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

A list of streets to receive slurry seal is attached.

KEY STAKEHOLDERS AND PROJECTED IMPACTS:

Citizens will be notified by the contractor prior to the start of paving operations on their street. The prime contractor who will receive the additional funds from this change order is American Asphalt South, Inc., and the sub-contractors are Manhole Adjusting, Inc., Koch-Armstrong General Engineering Inc., SAFE USA Inc., and Cleanline Sweeping, Inc.

Minutes of the Council of the City of San Diego  
for the Regular Meeting of Tuesday, March 25, 2008

Page 45

Sierra/Jarrell

Aud. Cert. 2800539.

Staff: Mary Wolford - (619) 527-7515  
Thomas C. Zeleny - Deputy City Attorney

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 10:25 a.m. – 10:31 a.m.)

CONSENT MOTION BY MADAFFER TO ADOPT. Second by Atkins. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Hueso-yea.

ITEM-107: First Amendment to the Consultant Agreement with KTU+A, Inc. for Additional Professional Design Services for Mission Bay – Fiesta Island General Development Plan. (Mission Bay Park Community Area. District 6.)

(Continued from the meeting of March 4, 2008, Item 104, at the request of Councilmember Frye, for further review.)

**STAFF'S RECOMMENDATION:**

Adopt the following resolution:

(R-2008-600) CONTINUED TO TUESDAY, MAY 13, 2008

Approving the transfer of funds from CIP-22-960.0, Fiesta Island Infrastructure Improvements, to CIP-22-959.0, Mission Bay - Fiesta Island General Development Plan within Fund Number 10507, Sludge Mitigation Fund, in the amount of \$175,000;

Authorizing the City Auditor and Comptroller to appropriate and expend \$175,000 from CIP-22-959.0, Mission Bay-Fiesta Island General Development Plan, for the purpose of executing the First Amendment to Consultant Agreement with KTU+A;

Authorizing the Mayor, or his designee, to execute, for and on behalf of the City of San Diego, a First Amendment to the Consultant Agreement with KTU+A, Inc. for additional professional design services for CIP-22-959.0, Mission Bay- Fiesta Island General Development Plan, under the terms and conditions set forth in the Agreement, together with any reasonably necessary modifications or amendments thereto which do not increase project scope or cost and which the Mayor shall deem necessary from time to time in order to carry out the purposes and intent of this Project and Agreement;

Declaring that this activity is not a project and therefore exempt from California Environmental Quality Act (CEQA) pursuant to State Guidelines Section 15060(c)(3).

**STAFF SUPPORTING INFORMATION:**

The original agreement with KTU+A for professional consulting services for Mission Bay - Fiesta Island General Development Plan was approved by Council on October, 31, 2005.

As part of the calculation of the fees, the consultant incorrectly added the various subtotals for the sub consultants on the project. As a result, the compensation amount for the Scope of Services, Exhibit B-1, was incorrectly totaled, resulting in an error of \$41,794 less than the actual total of the various elements. The mistaken total was not discovered until after the project work had started and work was in progress.

Additionally, as work on the project has progressed; additional scopes of work items have been identified that are required to complete the project. Additional scope requirements include additional presentations to the Mission Bay Park Committee and community groups, additional detailed biological surveys, application and processing of Site Development and Coastal Development permits, increased complexity of site design requirements based on accommodating numerous competing land uses, increased labor costs associated with processing greater than anticipated public input questionnaires, emails, meetings and phone calls, and web site hosting and maintenance. A complete detailed listing of the items of work associated with the increased scope is contained on "Exhibit A-1 Additional Scope of Services" attached to the First Amendment to Consultant Agreement. The total amount requested for these additional services is \$118,017. Staff is also requesting an additional \$5,000 be allocated to cover unforeseen professional design services as the project begins the approval process. The total requested increase to the Consultant's contract is \$164,811.

The remaining \$10,189 will fund additional City staff time required to manage the project through the approval process.

FISCAL CONSIDERATIONS:

Funds in the amount of \$175,000 are available in CIP-22-960.0, Fiesta Island Infrastructure Improvements, Fund No. 01507, which provides for infrastructure improvements to support future recreational facilities on Fiesta Island in Mission Bay Park.

PREVIOUS COUNCIL and/or COMMITTEE ACTION:

Original Agreement with KTU+A, Incorporated in the amount of \$290,000 was approved by City Council on October 31, 2005, RR-300993.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

Two public workshops have been conducted where public input has been solicited via questionnaires, and workshop station notes, monthly updates dating back for more than a year with the Mission Bay Park Committee, a project website with feedback and questionnaire opportunities, and information presentations to:

- Clairemont Mesa Town Council (April 5),
- Clairemont Mesa Planning Committee (May 15),
- Linda Vista Community Planning Committee (April 23),
- Pacific Beach Community Planning Committee (April 25),
- Pacific Beach Town Council (May 16),
- Mission Beach Precise Planning Board (May 15),
- Mission Beach Town Council (June 13),
- Ocean Beach Planning Board (June 6)
- Peninsula Community Planning Board (May 17).

EQUAL OPPORTUNITY CONTRACTING:

Funding Agency:	City of San Diego
Goals:	15% Voluntary (MBE/WBE/DBE/DVBE/OBE)
Subconsultant Participation:	\$ 940,000                      Certified Firms (11.5%)
	\$3,155,000                    Other Firms (37.9%)
Other:	Workforce Report Submitted - Equal Opportunity Plan required. Staff will monitor plan and adherence to Nondiscrimination Ordinance.

KEY STAKEHOLDERS AND PROJECTED IMPACTS:

KTU+A, Incorporated, Mission Bay Park and park users.

LoMedico/Goldstone

Aud. Cert. 2800493.

Minutes of the Council of the City of San Diego  
for the Regular Meeting of Tuesday, March 25, 2008

Page 48

Staff: Paul Jacob - (619) 235-5242  
Shannon Thomas - Deputy City Attorney

FILE LOCATION: NONE

COUNCIL ACTION: (Time duration: 11:29 a.m. – 11:21 a.m.)

MOTION BY FRYE TO CONTINUE TO TUESDAY, MAY 13, 2008, FOR FURTHER REVIEW. Second by Faulconer. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Hueso-yea.

- \* ITEM-108: Consultant Agreement with Moffat-Nichol for Professional Services for the Phase 1 - Alvarado Canyon Road Realignment Project. (Navajo Community Area. District 7.)

(See memorandum from Beryl Rayford dated 2/21/2008.)

**STAFF'S RECOMMENDATION:**

Adopt the following resolution:

(R-2008-633) ADOPTED AS RESOLUTION R-303512

Authorizing the Mayor, or his designee, to execute a consultant agreement (Agreement) with Moffat-Nichol, for professional services for the Phase 1 - Alvarado Canyon Road Realignment (Project), under the terms and conditions set forth in the Agreement;

Authorizing the City Auditor and Comptroller to expend an amount not to exceed \$370,000 from CIP-52-713.0, Alvarado Canyon Road Realignment, Fund No. 30300, TransNet, for the purpose of providing funds for the Project, provided the City Auditor and Comptroller first furnishes a certificate certifying that funds necessary for the expenditure are, or will be, on deposit with the City Treasurer;

Authorizing the City Auditor and Comptroller, upon advice from the administering department, to transfer excess budgeted funds, if any, to the appropriate reserves;

Declaring that this activity is statutorily exempt from California Environmental Quality Act (CEQA) pursuant to State CEQA Guidelines Section 15265, Feasibility and Planning Studies.

**STAFF SUPPORTING INFORMATION:**

The CIP-52-713.0 was created to design and construct a realignment of Alvarado Canyon Road which currently connects to the Interstate 8 off ramp via a non-standard ramp. The design alternatives are based on a preliminary design to connect the existing road (from east of the Interstate 8 connection) via a bridge over Alvarado Canyon Creek to a reconfigured Mission Gorge Rd./Fairmount Rd. Intersection.

The realigned roadway would provide better access for vehicles, bicycles, and pedestrians to the Grantville Station of the San Diego Light Rail (Trolley), as well as remove the non-standard access ramp from the Interstate off-ramp. The realigned road would also connect to the existing Alvarado Canyon Road and new bridge structure providing access from Waring Road and Allied Gardens.

The realigned road would also connect to the existing Alvarado Canyon Road and new bridge structure providing access from Waring Road and Allied Gardens. The existing light rail bridge structure was previously designed and constructed to allow for the future Alvarado Canyon Road realignment.

A Request for Qualifications was advertised for the CIP project, from which a short-list was selected to interview. Moffatt & Nichol was selected from several highly-qualified firms to provide the Civil and Bridge Engineering, and overall Project Management of a consultant team responsible for preparing the environmental documents and permits, plans, specifications and estimates necessary to construct the realignment.

**FISCAL CONSIDERATIONS:**

The funds for this first phase of the contract are available in the CIP-52-713.0. The future phases, which include final design and construction support, will be negotiated separately with Moffatt & Nichol.

**PREVIOUS COUNCIL and/or COMMITTEE ACTION:**

CIP-52-713.0 was included in the FY06 CIP Budget.

**COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:**

Extensive outreach and coordination with the Navajo Community Planning Group, Grantville Redevelopment Agency, Allied Gardens Community Council, affected property owners, commuters, and advisory groups will be conducted as part of the feasibility studies and environmental document preparation process.

KEY STAKEHOLDERS & PROJECTED IMPACTS (if applicable):

- City of San Diego Engineering and Capital Project Department
- SANDAG/MTS - Light Rail
- Navajo Community Planning Group
- Grantville Redevelopment Agency
- Caltrans — California Department of Transportation
- Moffatt & Nichol
- T.Y. Lin International
- Kleinfelder
- Lintvedt, McColl & Associates
- BRG, Inc.
- Hon Consulting Urban Systems

Boekamp/Jarrell

Aud. Cert. 2800516.

Staff: Frank Gaines - (619) 533-3771  
Ryan Kohut - Deputy City Attorney

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 10:25 a.m. – 10:31 a.m.)

CONSENT MOTION BY MADAFFER TO ADOPT. Second by Atkins. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Hueso-yea.

\* ITEM-109: Agreement with Rick Engineering Company for the Poway Road Class I Bike Path Project. (Sabre Springs Community Area. District 5.)

(See memorandum for Tammy Rimes dated 7/18/07.)

STAFF'S RECOMMENDATION:

Adopt the following resolution:

(R-2008-571) . ADOPTED AS RESOLUTION R-303513

Authorizing the Mayor to execute, for and on behalf of the City, an agreement with Rick Engineering, for professional services for Poway Road - Class I Bike Path Project under the terms and conditions set forth in the Agreement;

Authorizing the expenditure of an amount not to exceed \$225,000 from Fund 79003, Sabre Springs Facilities Benefit Assessment, CIP-58-089.0, Poway Road - Class 1 Bike Path, for the purpose of executing the Sole Source Agreement with Rick Engineering for the above referenced Agreement;

Authorizing the City Auditor and Comptroller, upon advice from the administering department, to transfer excess funds, if any, to the appropriate reserves;

Declaring that this activity is statutorily exempt from CEQA pursuant to State CEQA Guidelines Section 15262.

**STAFF SUPPORTING INFORMATION:**

The Sabre Spring Community Plan encourages the development of a system of bikeways within the community tying into the Regional Bicycle Network. The Poway Road Class I Bike Path project provides for the construction of a Class I Bike Path (combined pedestrian and bicycle travel) easterly along the south side of Poway Road from the Interstate 15/Poway Road interchange to Sabre Springs Parkway, approximately 1,950 feet in length which replaces the existing Class II Bikeway located within the shoulder of Poway Road. This Agreement will provide compensation for civil design work by Rick Engineering Company (Consultant) and environmental and geotechnical studies, structural design work by Subconsultants.

Rick Engineering Company will be hired as the sole source consultant (Sole Source Case Number 1650). Rick Engineering Company has previously prepared final plans for the Developer that was originally responsible for construction of the Poway Road Bike Path. The Developer never constructed the Bike Path. The project is now a Capital Improvement Project with most of the funding provided by the Sabre Spring Facilities Benefit Assessment. Rick Engineering Company has been the Primary Consultant responsible for preparing plans and specifications for the construction of most of the infrastructure in the area. Rick Engineering Company currently has completed topographic and CADD files, hydrology, mapping, survey work and is capable of a quick start up time to meet project timeline. Thus, their familiarity with the affected areas, traffic congestion, and environmental concerns in the region will enhance their ability to commence design expeditiously and efficiently. This familiarity would generate savings in both time and cost.



FISCAL CONSIDERATIONS:

Funds for this action, in the amount of \$225,000, are available from Fund 79003, Sabre Springs Facilities Benefit Assessment, CIP-58-089.0, Poway Road - Class I Bike Path Project.

PREVIOUS COUNCIL COMMITTEE ACTION:

- Council Resolution R-29658 1, dated May 28, 2002, adopted The Bicycle Master Plan.
- Council Resolution R-301 870 dated September 19, 2006 authorized the acceptance of \$500,000 from Fund 30301, Transnet Bicycle and Pedestrian Fund for the subject project.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

The project will be scheduled to be presented to the Community.

KEY STAKEHOLDERS:

Sabre Spring Community, Bicyclists who travel Mira Mesa and Poway areas, Rick Engineering Company (Consultant), Simon Wong Engineering (Subconsultant), Geocon (Subconsultant), Recon (Subconsultant)

EQUAL OPPORTUNITY CONTRACTING:

Funding Agency: City of San Diego (FBA & TransNet)

Goals: This action is not subject to mandatory or voluntary outreach goals, however, outreach efforts resulted in 27.15% subconsultant participation. This agreement is subject to the City's Equal Opportunity Contracting (San Diego Ordinance No. O-18173, Section 22.2701 through 22.2702) and Non-Discrimination in Contracting Ordinance (San Diego Municipal Code Sections 22.3501 through 22.3517).

Other: Workforce Report Submitted; Letter of Commitment Submitted; Equal Opportunity Plan required. Staff will monitor plan and adherence to Nondiscrimination Ordinance.

Boekamp/Jarrell

Aud. Cert. 2800495.

Staff: Marnell Gibson - (619) 533-5213  
Peter a. Mesich - Deputy City Attorney

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 10:25 a.m. – 10:31 a.m.)

CONSENT MOTION BY MADAFFER TO ADOPT. Second by Atkins. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Hueso-yea.

\* ITEM-110: Traffic Signal Modification at Harbor Drive and Sampson Street. (Barrio Logan Community Area. District 8.)

STAFF'S RECOMMENDATION:

Adopt the following resolution:

(R-2008-606) ADOPTED AS RESOLUTION R-303514

Authorizing the City Auditor and Comptroller to accept a contribution of \$28,002 by San Diego Gas & Electric Co. (SDG&E);

Authorizing an increase in the amount of \$28,002 to the Fiscal Year 2008 Budget in CIP-68-011.0, Traffic Signals - Modifications/Modernizations, Fund 63022, Private and Developer Contributions to CIP;

Authorizing the appropriation and expenditure of an amount not to exceed \$28,002 from CIP-68-011.0, Traffic Signals - Modifications/Modernizations, Fund 63022, Private and Developer Contributions to CIP, for the purpose of modifying the traffic signal at Harbor Drive and Sampson Street, contingent upon the City Auditor and Comptroller first certifying that funds are available;

Authorizing the City Auditor and Comptroller to return excess budgeted funds if any to the appropriate reserves;

Declaring that this activity is categorically exempt from California Environmental Quality Act (CEQA) pursuant to State CEQA Guidelines Section 15303.

**STAFF SUPPORTING INFORMATION:**

This action will allow the City of San Diego to accept a contribution by San Diego Gas & Electric Co. (SDG&E) toward the construction of a traffic signal modification at the intersection of Harbor Drive and Sampson Street. SDG&E has a requirement to provide modifications to the traffic signal at the northwest corner of this intersection as a result of the construction of the Silvergate Substation.

The Engineering and Capital Projects Department has a construction project at this location that involves a traffic signal modification at the three remaining corners of the intersection. SDG&E has agreed to contribute \$28,002 toward the construction of the City's project. The completion of the traffic signal modification will be simplified thereby causing less impact to the community by having the City's contractor (HMS Construction, Inc.) complete the entire traffic signal modification. The traffic signal modification involves the installation of a split phase on Sampson Street at Harbor Drive. This type of operation will provide each approach on Sampson Street its own independent and separate set of green indications. The work will also include the installation of new signal poles and new signal indications.

**FISCAL CONSIDERATIONS:**

The total estimated project cost is \$140,000. SDG&E is contributing \$28,002 toward the traffic signal modification. City funds are available in CIP-68-011.0, Traffic Signals - Modifications/ Modernizations Annual Allocation.

**PREVIOUS COUNCIL and/or COMMITTEE ACTION:** None.

**COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:**

Staff has notified the Barrio Logan Community Planning group about this project.

**KEY STAKEHOLDERS AND PROJECTED IMPACTS:**

SDG&E and the Barrio Logan Community. The project will enhance safety at the intersection by eliminating the left turning versus opposing through traffic conflict for drivers on Sampson Street. This will be accomplished by providing each approach on Sampson Street its own independent and separate green indications.

Boekamp/Jarrell

Staff: Deborah Van Wanseele - (619) 533-3012  
Michael Calabrese – Chief Deputy City Attorney

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 10:25 a.m. – 10:31 a.m.)

CONSENT MOTION BY MADAFFER TO ADOPT. Second by Atkins. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Hueso-yea.

\* ITEM-111: Appointment to the Funds Commission.

(See memorandum from Mayor Sanders dated 2/22/08, with resume attached.)

**MAYOR SANDERS' RECOMMENDATION:**

Adopt the following resolution:

(R-2008-729) ADOPTED AS RESOLUTION R-303515

Council confirmation of the following appointment by the Mayor of the City of San Diego, to serve as a member of the Funds Commission, for a term ending as indicated:

<u>NAME</u>	<u>TERM ENDING</u>
Chuck Lemoine (Carmel Valley, District 1) (Replacing Rose Ann Ignell, who has resigned)	January 28, 2010

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 10:25 a.m. – 10:31 a.m.)

CONSENT MOTION BY MADAFFER TO ADOPT. Second by Atkins. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Hueso-yea.

\* ITEM-112: Settlement of Litigation Entitled Vadnais Corporation et al. v City of San Diego.

**CITY ATTORNEY'S RECOMMENDATION:**

Adopt the following resolution:

(R-2008-758)                      ADOPTED AS RESOLUTION R-303516

A Resolution approved by the City Council in Closed Session on Tuesday, March 4, 2008, by the following vote: Council President Peters-yea; Faulconer-yea; Atkins-not present; Young-yea; Maienschein-not present; Frye-yea; Council President Pro Tem Madaffar-not present; Hueso-yea.

Authorizing the Mayor, or his designee, to pay the amount of \$530,000 in the settlement of each and every claim of Vadnais Corporation against the City, its agents and employees, arising from the Sewer Pump Station 30A - Alternative Project as set forth in San Diego Superior Court Case No. GIC 854791, Vadnais Corp. et al. v City of San Diego;

Authorizing the City Auditor and Comptroller to appropriate and issue two checks, one in the amount of \$376,544.48 and one in the amount of \$153,455.52 (total of \$530,000), payable to Vadnais Corporation in full settlement of all claims arising from the Sewer Pump Station 30A - Alternative Project;

Declaring that \$376,544.48 is to be payable from Sewer Fund No. 41506, and \$153,455.52 is payable from Sewer Pump Station 30A Project Fund CIP-46-200.0.

**SUPPORTING INFORMATION:**

This litigation arises from changed conditions and extra work associated with the construction project known as Sewer Pump Station 30A - Alternative. The Project consisted of the installation of new sewer lines, primarily by tunneling, in the vicinity of La Jolla Village Drive. and Interstate 5.

During construction the Contractor encountered areas of underground soil conditions known as concretions that were significantly harder and more numerous than as reasonably anticipated based upon the pre-bid geotechnical reports that were part of the Contract documents. Under the Contract, these conditions would be considered "Changed Conditions" and the Contractor would be entitled to its actual additional costs plus a contractually specified markup.

The unanticipated soil conditions led to slower production rates for machine tunneling, and in two instances, the abandonment of machine tunneling in favor of hand tunneling, all at increased cost to the Contractor.

This settlement results in a payment to Vadnais of \$530,000, which reflects additional costs incurred by Vadnais above the current contract price. Both parties, along with Vadnais' tunneling subcontractor Golden State, agreed to enter a Settlement Agreement and Release of all Claims.

FISCAL CONSIDERATIONS:

\$376,544.48 is available in Sewer Fund No. 41506; \$153,455.52 is available in Sewer Pump Station 30A Project Fund No. CIP-46-200.0.

PREVIOUS COUNCIL and/or COMMITTEE ACTION:

This settlement and payment was considered by the City Council in Closed Session on March 4, 2008. On motion of District 6 and second by District 1, the City Council, by the following vote: Yeas, Districts 1, 2, 4, 6, and 8; Nays, None; Not Present, Districts 3, 5, and 7; approved the settlement of all claims of Vadnais Corporation against the City in the litigation of Vadnais Corporation et al. v City of San Diego, San Diego Superior Court Case No. GIC 854791, for the payment of \$530,000.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS: N/A

KEY STAKEHOLDERS & PROJECTED IMPACTS (if applicable): N/A

Kalinowski

**NOTE:** The Auditor's Certificate was not requested prior to Closed Session. The vote taken in Open Session shall be the official vote.

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 10:25 a.m. – 10:31 a.m.)

CONSENT MOTION BY MADAFFER TO ADOPT. Second by Atkins. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Hueso-yea.

\* ITEM-113: Settlement of Personal Injury Claim to Sean Anthony M. Brennan.

**STAFF'S RECOMMENDATION:**

Adopt the following resolution:

(R-2008-759)            ADOPTED AS RESOLUTION R-303517

A Resolution approved by the City Council in Closed Session on Tuesday, February 26, 2008, by the following vote: Council President Peters-yea; Faulconer-yea; Atkins-yea; Young-yea; Maienschein-yea; Frye-yea; Council President Pro Tem Madaffer-yea; Hueso-yea.

Authorizing the sum of \$160,000 to be paid from the Public Liability Fund (81140) in settlement of each and every claim against the City, its agents and employees, arising from the Litigation;

Authorizing the City Auditor and Comptroller to issue a check in the amount of \$160,000 made payable to Thorsnes Bartolotta McGuire Client Trust Account re: Sean Brennan.

**STAFF SUPPORTING INFORMATION:**

The proposed settlement would resolve all claims brought by Sean Anthony M. Brennan.

**FISCAL CONSIDERATIONS:**

Settlement will be paid from the Public Liability Fund.

**PREVIOUS COUNCIL and/or COMMITTEE ACTION:**

This settlement has been heard in closed session on February 26, 2008 the City Council approved the settlement amount of \$160,000. The motion passed 8-0. The motion was made by Councilmember Atkins and seconded by Councilmember Frye.

**COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:** N/A

**KEY STAKEHOLDERS AND PROJECTED IMPACTS:** N/A

Boardman/Lewis

Aud. Cert. 2800602.

Staff: Mike Gomez - (619) 236-7096  
Jane M. Boardman - Deputy City Attorney

**NOTE:** The Auditor's Certificate was not requested prior to Closed Session. The vote taken in Open Session shall be the official vote.

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 10:25 a.m. – 10:31 a.m.)

CONSENT MOTION BY MADAFFER TO ADOPT. Second by Atkins. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Hueso-yea.

ITEM-114: American Civil Liberties Union Day.

**COUNCIL PRESIDENT PETERS' AND COUNCILMEMBER ATKINS'  
RECOMMENDATION:**

Adopt the following resolution:

(R-2008-713) ADOPTED AS RESOLUTION R-303518

Commending the American Civil Liberties Union of the San Diego and Imperial Counties for its continuous advocacy for the rights and freedoms of all San Diego;

Proclaiming March 13, 2008, to be "American Civil Liberties Union Day" in the City of San Diego.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 11:32 a.m. – 11:46 a.m.)

MOTION BY ATKINS TO ADOPT. Second by Peters. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-nay, Maienschein-nay, Frye-yea, Madaffer-not present, Hueso-yea.



\* ITEM-115: 2008 San Diego Police Department Men's 800 Relay Team Day.

**COUNCILMEMBER ATKINS' RECOMMENDATION:**

Adopt the following resolution:

(R-2008-742)            ADOPTED AS RESOLUTION R-303519

Commending the runners, volunteers and sponsors of the 2008 San Diego Police Department Men's 800 Relay Team and wishing them good luck;

Proclaiming April 19, 2008, to be "2008 San Diego Police Department Men's 800 Relay Team Day" in the City of San Diego.

FILE LOCATION:            AGENDA

COUNCIL ACTION:            (Time duration: 10:25 a.m. – 10:31 a.m.)

CONSENT MOTION BY MADAFFER TO ADOPT. Second by Atkins. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Hueso-yea.

\* ITEM-116: Rhythms of India: The Art of Nandalal Bose Day.

**COUNCILMEMBER ATKINS' RECOMMENDATION:**

Adopt the following resolution:

(R-2008-711)            ADOPTED AS RESOLUTION R-303520

Commending the contributions of Nandalal Bose to India and the influence his artwork had on Indian culture;

Proclaiming February 21, 2008, to be "Rhythms of India: The Art of Nandalal Bose Day" in the City of San Diego.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:25 a.m. – 10:31 a.m.)

CONSENT MOTION BY MADAFFER TO ADOPT. Second by Atkins. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Hueso-yea.

\* ITEM-117: Conan Cheung Day.

**COUNCILMEMBER ATKINS' RECOMMENDATION:**

Adopt the following resolution:

(R-2008-705) ADOPTED AS RESOLUTION R-303521

Commending Conan Cheung for the improvements he has implemented in the City of San Diego through the Metropolitan Transit System;

Proclaiming February 21, 2008, to be "Conan Cheung Day" in the City of San Diego.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:25 a.m. – 10:31 a.m.)

CONSENT MOTION BY MADAFFER TO ADOPT. Second by Atkins. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Hueso-yea.

\* ITEM-118: International Women's Day.

**COUNCILMEMBER FRYE'S RECOMMENDATION:**

Adopt the following resolution:

(R-2008-737) . ADOPTED AS RESOLUTION R-303522

Proclaiming March 8, 2008 to be "International Women's Day" in the City of San Diego.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:25 a.m. – 10:31 a.m.)

CONSENT MOTION BY MADAFFER TO ADOPT. Second by Atkins. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Hueso-yea.

\* ITEM-119: Disability Awareness Month.

**COUNCILMEMBER FRYE'S AND COUNCILMEMBER HUESO'S  
RECOMMENDATION:**

Adopt the following resolution:

(R-2008-736) ADOPTED AS RESOLUTION R-303523

Proclaiming March 2008 to be "Disability Awareness Month" in the City of San Diego, in support of the efforts to provide opportunities for people with disabilities to fulfill their personal goals, reach their maximum potential, and live as independently as possible.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:25 a.m. – 10:31 a.m.)

CONSENT MOTION BY MADAFFER TO ADOPT. Second by Atkins. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Hueso-yea.

- \* ITEM-120: Excusing Council President Pro Tem Madaffer from Attending the March 12, 2008 Land Use and Housing Committee Meeting.

**COUNCIL PRESIDENT PRO TEM MADAFFER'S RECOMMENDATION:**

Adopt the following resolution:

(R-2008-728) ADOPTED AS RESOLUTION R-303524

Excusing Council President Pro Tem Jim Madaffer from attending the regularly scheduled Land Use and Housing Authority Committee Meeting of March 12, 2008.

**NOTE:** This item is not subject to Mayor's veto.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:25 a.m. – 10:31 a.m.)

CONSENT MOTION BY MADAFFER TO ADOPT. Second by Atkins. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Hueso-yea.

- \* ITEM-121: Excusing Council President Pro Tem Madaffer from Attending the March 10 and 11, 2008 City Council and Closed Session Meetings.

**COUNCIL PRESIDENT PRO TEM MADAFFER'S RECOMMENDATION:**

Adopt the following resolution:

(R-2008-726) ADOPTED AS RESOLUTION R-303525

Excusing Council President Pro Tem Jim Madaffer from attending the regularly scheduled City Council and Closed Session Meetings of March 10 and 11, 2008.

**NOTE:** This item is not subject to Mayor's veto.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:25 a.m. – 10:31 a.m.)

CONSENT MOTION BY MADAFFER TO ADOPT. Second by Atkins. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Hueso-yea.

\* ITEM-122: Declaring a Continued State of Emergency Regarding the Wildfires.

**TODAY'S ACTION IS:**

Adopt the following resolution:

(R-2008-696) ADOPTED AS RESOLUTION R-303526

Declaring a continued state of emergency to exist in the City of San Diego due to the wildfires which began on October 21, 2007, pursuant to California Government Code Section 8630;

Declaring that the measures previously taken by the City Council in Resolution No. R-303098 shall continue to have full force and effect.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:25 a.m. – 10:31 a.m.)

CONSENT MOTION BY MADAFFER TO ADOPT. Second by Atkins. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Hueso-yea.

ITEM-123: Declaring a Continued State of Emergency Due to Severe Shortage of Affordable Housing in the City.

**TODAY'S ACTION IS:**

Adopt the following resolution:

(R-2008-544) ADOPTED AS RESOLUTION R-303529

Declaring a Continued State of Emergency Due to Severe Shortage of Affordable Housing in the City of San Diego.

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 5:08 p.m. – 5:09 p.m.)

MOTION BY HUESO TO ADOPT. Second by Madaffer. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Hueso-yea.

\* ITEM-124: Declaring a Continued State of Emergency Regarding the Discharge of Raw Sewage from Tijuana, Mexico. (District 8.)

**TODAY'S ACTION IS:**

Adopt the following resolution:

(R-2008-579) ADOPTED AS RESOLUTION R-303527

Declaring a Continued State of Emergency regarding the discharge of raw sewage from Tijuana, Mexico.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:25 a.m. – 10:31 a.m.)

CONSENT MOTION BY MADAFFER TO ADOPT. Second by Atkins. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Hueso-yea.

- \* ITEM-125: State of Local Emergency Declaration Regarding the Landslide on Mount Soledad.

**TODAY'S ACTION IS:**

Adopt the following resolution:

(R-2008-618)            ADOPTED AS RESOLUTION R-303528

Declaring a continued state of emergency to persist relative to the landslide on Mount Soledad, pursuant to California Government Code Section 8630;

Declaring that the measures previously authorized by the City Council in Resolution No. R-303041 shall continue to have full force and effect.

FILE LOCATION:            AGENDA

COUNCIL ACTION:            (Time duration: 10:25 a.m. – 10:31 a.m.)

CONSENT MOTION BY MADAFFER TO ADOPT. Second by Atkins. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Hueso-yea.

- ITEM-330: First Amendment to the Master Lease Agreement with Koch Financial for the Lease Purchase of Fire Helicopter and Essential Equipment and Vehicles.  
(Citywide.)

(See Report to the City Council No. 08-039.)

**STAFF'S RECOMMENDATION:**

Introduce the following ordinance:

(O-2008-128)            INTRODUCED, TO BE ADOPTED ON  
TUESDAY, APRIL 15, 2008

Introduction of an Ordinance authorizing the Mayor to enter into a First Amendment to the Master Lease Agreement between the City and Koch Financial, to finance the acquisition of various motive and public safety equipment, including the acquisition of a new fire-rescue helicopter.

**NOTE: 6 votes required pursuant to Section 99 of the City Charter.**

**STAFF SUPPORTING INFORMATION:**

The City is seeking to finance, via a master lease-purchase agreement, the acquisition of a new Fire/Rescue Helicopter, and Motive Equipment to meet its Fiscal Year 2008 fleet replacement needs. A First Amendment to the Master Lease Agreement is proposed to secure financing for these acquisitions. Given the urgency to obtain financing for the acquisition of the Fire Helicopter and other vehicle and equipment needs, an amendment to the existing Master Lease Agreement was identified as the most feasible financing alternative. The current Master Lease Agreement with Koch Financial Corporation ("Koch") is in an amount not to exceed \$14.6 million for the acquisition of FY 07 motive equipment in the amount of \$11.6 million and equipment related to the City's public safety communications project in the amount of \$3 million. The proposed first amendment would increase the funding capacity of the existing contract with Koch by \$22.7 million to a total amount not to exceed \$37.3 million. This includes an estimated \$10.6 million for the acquisition of the Fire Helicopter and an estimated \$12.01 million for the acquisition of Fiscal Year 2008 motive equipment needs. Koch was selected as the lender for the current transaction, by submitting the most cost effective funding option.

**FISCAL CONSIDERATIONS:**

**I. Fire Helicopter**

The fire helicopter estimated to cost \$10.6 million is proposed to be financed over a 15-year term based on its useful life. The estimated fiscal impact over the 15-year repayment term, assuming delivery of the equipment in August 2008, is as follows (subject to changes in market conditions, dates of delivery and/or equipment costs):

Description

FY 2009 Sales Tax payment	\$ 821,500
FY 2010 - 2023 Annual Payment	\$1,044,891
FY 2024	\$522,445
Total Lease Payments (rounded)	\$15,150,913
Total Payments (Including Sales Tax) (rounded)	\$15,972,413
Estimates, subject to change	



**Minutes of the Council of the City of San Diego  
for the Regular Meeting of Tuesday, March 25, 2008**

**Page 68**

Assumptions:

- Vendor payment date: September 15, 2008
- 1<sup>st</sup> semi-annual payment 12 months after vendor payment
- Estimated interest rate: 4.73%
- Sales tax is not financed, and will be paid at the time of vendor payment

Based on current projections, it is anticipated adequate funds exist within Fire-Rescue's helicopter special fund account #10264 to pay the sales tax upon aircraft delivery and to pay for the lease-payments through Fiscal Year 2010. Lease payments would need to be supported by the General Fund beginning in Fiscal Year 2011. In addition to lease-payments, expenses related to operations and maintenance and staffing will be incurred, which would be supported by the General Fund commencing Fiscal Year 2009.

**II. Motive Equipment**

Motive Equipment estimated at \$12.01 million will be financed over three-year or five-year term, determined by the useful life of each class of equipment. The breakdown is as follows:

	<u>Amount Financed</u>	<u>Financing Term</u>
	\$49,000	3 years
	\$11,962,470	5 years
Total	\$12,011,470	

The estimated fiscal impact is as follows (subject to changes in market conditions, dates of delivery and/or equipment costs):

	<u>3 YR</u>	<u>5 YR</u>	<u>TOTAL</u>
FY 2009 - Sales Tax payment	\$3,798	\$927,091	\$930,889
FY 2009 - Fitting Costs	\$7,576	\$515,500	\$523,076

Lease Payments:

FY 2009	\$8,596	\$1,308,585	\$1,317,181
FY 2010	\$17,192	\$2,617,169	\$2,634,362
FY 2011	\$17,192	\$2,617,169	\$2,634,362
FY 2012	\$8,596	\$2,617,169	\$2,625,766
FY 2013		\$2,617,169	\$2,617,169
FY 2014		\$1,308,585	\$1,308,585
Total Lease Payments (rounded)	\$51,577	\$13,085,847	\$13,137,424
Total Payments (Lease payments + sales tax + fitting costs) (rounded)	\$62,950	\$14,528,438	\$14,591,389

**Minutes of the Council of the City of San Diego  
for the Regular Meeting of Tuesday, March 25, 2008**

**Page 69**

Assumptions:

- Vendor payment date: July 1, 2008
- 1st semi-annual payment 6 months after vendor payment
- Estimated interest rate:
  - 3-yrs: 2.83%
  - 5-yrs: 3.23%
- Sales tax and fitting costs are not financed, and will be paid at the time of vendor payment

Funds to replace motive equipment are supported by annual charges to departments for each item of motive equipment. The annual lease payments will be made from funds generated from the aforementioned annual charges accrued in the City's multiple sub-fund account #500311.

EQUAL OPPORTUNITY CONTRACTING:

The funding source for this agreement is the City. This agreement is subject to the City's Equal Opportunity Contracting (San Diego Ordinance No. O-18173, Section 22.2701 through 22.2702) and Non-Discrimination in Contracting Ordinance (San Diego Municipal Code Sections 22.3501 through 22.3517).

PREVIOUS COUNCIL MEETING and/or COMMITTEE ACTION:

The current agreement with Koch Financial was authorized by the City Council on March 27, 2007 under Ordinance O-19584.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS: N/A

KEY STAKEHOLDERS AND PROJECTED IMPACTS:

Koch Financial, the lease provider, is the sole business entity involved in this agreement extension.

Kommi/Lewis

Staff: Jyothi Pantulu - (619) 236-6917  
Mark D. Blake – Chief Deputy City Attorney

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 3:10 p.m. – 3:20 p.m.)

MOTION BY MAIENSCHIN TO INTRODUCE. Second by Young. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Hueso-yea.

ITEM-331: City's Comprehensive Annual Financial Report for the Fiscal Year Ending June 30, 2005 and the related Single Audit and Yellow Book Reports.

(See CAFR PowerPoint Presentation; memorandum from Greg Levin dated 2/14/2008; and Audit Committee's CAFR Review Questions.)

(Continued from the meetings of March 4, 2008, Item S504, and March 11, 2008, Item S500, last continued at the request of Councilmember Faulconer, for further review.)

**TODAY'S ACTION IS:**

Adopt the following resolution:

(R-2008-712 Rev.) ADOPTED AS RESOLUTION R-303530

Receiving and filing the City's Fiscal Year 2005 Comprehensive Annual Financial Report (CAFR); and receiving and filing the City's Fiscal Year 2005 Single Audit.

**AUDIT COMMITTEE'S RECOMMENDATION:**

On 2/25/2008, Audit voted 3 to 0 to forward the 2005 CAFR to the full City Council with the recommendation that they receive and file the CAFR. (Councilmembers Faulconer, Atkins, and Young voted yea.)

**SUPPORTING INFORMATION:**

The City received an Audit Opinion on the CAFR, Single Audit, and Yellow Book Reports, dated October 26, 2007. Subsequent to the issuance of the 2005 CAFR, the City Attorney requested revisions to the disclosure in the completed CAFR. In recognition of the City Attorney's role in the governance process of the City the Mayor agreed to reopen the CAFR. This resulted in an approximate 3 month revision process and new opinion dated February 8, 2008. The revisions made to the 2005 CAFR are provided in an attachment to this summary.

**FISCAL CONSIDERATIONS:** None.

**PREVIOUS COUNCIL and/or COMMITTEE ACTION:**

Audit Committee unanimously approved this item on February 25, 2008.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS: N/A

KEY STAKEHOLDERS AND PROJECTED IMPACTS: N/A

Levin/Lewis

Staff: Greg Levin - (619) 236-6162  
Mark D. Blake - Chief Deputy City Attorney

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 2:21 p.m. – 3:02 p.m.;  
3:36 p.m. – 5:07 p.m.)

MOTION BY HUESO TO ADOPT. Second by Faulconer. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-nay, Madaffer-yea, Hueso-yea.

ITEM-332: Initiation of Amendments to Land Use Plans and Local Coastal Program, and Zoning Needed to Implement the San Diego River Park Master Plan. (Mission Bay Park, Ocean Beach, Mission Beach, Midway Pacific Highway, Linda Vista, Mission Valley, Tierrasanta, Navajo, and East Elliot Community Areas. Districts 2, 6, and 7.)

**COUNCIL PRESIDENT PRO TEM MADAFFER'S, COUNCILMEMBER FAULCONER'S, AND COUNCILMEMBER FRYE'S RECOMMENDATION:**

Adopt the following resolution:

(R-2008-555) ADOPTED AS RESOLUTION R-303531

Initiating the amendments to land use plans, the local coastal program and the base zoning, needed to implement the San Diego River Park Master Plan;

Declaring that this activity is not a "project" and therefore is exempt from CEQA pursuant to State CEQA Guidelines Section 15060(c)(3).

**SUPPORTING INFORMATION:**

The need to amend the General Plan, Community Plans, Local Coastal Program and Zoning Code in order to implement the San Diego River Park Master Plan originated with the City Council support for the draft San Diego River Park Master Plan at the Council Hearing on June 21, 2005. The draft Master Plan states under 'Future Steps' that an essential next step is to determine the right strategy to implement the Master Plan within the City of San Diego. Several options are available and should be studied, including: 1) amend the General Plan; 2) amend the Community Plans; and 3) apply an overlay zone. Further analysis is needed to determine the proper course of action, which includes working with affected community groups, and public and regulatory agencies. In order to begin the analysis of an implementation strategy, City Council must first initiate the plan amendments and the rezoning and approve the Consultant Agreement. The initiation for the plan amendments and rezoning would allow staff to proceed with the necessary analysis and potential revisions to adopt the San Diego River Park Master Plan. A Consultant has been selected to provide this analysis and the Consultant Agreement will be brought to Council as a separate item.

The initiation processes are identified in Article 2, Land Use Plans, Division 122.0103(a) and 123.0103(a) of the Land Development Code which states that the City Council may initiate an amendment to a community plan and commencement of zoning and rezoning by adopting a resolution. The actual Community Plan Amendments, Zoning and Rezoning will be a future action by the City Council.

**FISCAL CONSIDERATIONS:**

Costs associated with analyzing the options to determine an appropriate implementation strategy would be covered under the Consultant Agreement (under a separate action) and City staff charges would be covered by General Fund monies.

**PREVIOUS COUNCIL and/or COMMITTEE ACTION:**

- R-298286, Consultant Agreement for the San Diego River Park, August 4, 2003.
- R-300561, Accepting Informational Report, June 21, 2005.

**COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:**

As part of the draft master planning effort, there were three public workshops held, monthly San Diego River Coalition meetings, and presentations were made to a number of interested community advisory and other groups including, Mission Trails Regional Park Citizens Advisory Committee, Wetlands Advisory Committee, Mission Trails Regional Task Force, Tierrasanta Community Council, C3, Mission Bay Park Committee, North Bay PAC Redevelopment District, Ocean Beach Planning Board, Mission Valley Unified Planning Organization, Linda Vista Planning Group, Navajo Community Planners, Old Town Community Planning

Committee, Park and Recreation Board Design Review Committee, Park and Recreation Board, and the San Diego River Conservancy.

KEY STAKEHOLDERS & PROJECTED IMPACTS (if applicable):

Stakeholders: City and County residents, and property owners adjacent to and within the proposed San Diego River Park.

Faulconer/Frye/Madaffer

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 2:15 p.m. – 2:16 p.m.)

MOTION BY FRYE TO ADOPT. Second by Madaffer. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Hueso-yea.

ITEM-333: Consultant Agreement with Jones and Stokes for the Final San Diego River Park Master Plan, Program Environmental Impact Report and Economic Analysis. (Mission Bay Park, Ocean Beach, Mission Beach, Midway Pacific Highway, Linda Vista, Mission Valley, Navajo, Tierrasanta, and East Elliot Community Areas. Districts 2, 6, and 7.)

STAFF'S RECOMMENDATION:

Adopt the following resolution:

(R-2008-674) ADOPTED AS RESOLUTION R-303532

Authorizing the Mayor to execute, for and on behalf of the City, an Agreement with Jones and Stokes for the preparation of the Final San Diego River Park Master Plan, Program Environmental Impact Report and Economic Analysis, under the terms and conditions set forth in the Agreement, together with any reasonably necessary modifications or amendments thereto which do not increase project scope or cost and which the Mayor shall deem necessary from time to time in order to carry out the purposes and intent of this project and agreement;

Authorizing the expenditure of an amount not to exceed \$902,013 from CIP-29-666.0, San Diego River Park Master Plan (\$300,000 from Fund No. 10505, Environmental Growth Fund; \$507,000 from Fund No. 10518, Regional Park Fund; \$95,013 from Fund No. 10529, Infrastructure Improvement Fund, for the purpose of providing funds for the above referenced Project;

Authorizing the City Auditor and Comptroller, upon advice from the administering department, to transfer excess funds, if any, to the appropriate reserves;

Declaring that this activity is not a project and therefore not subject to California Environmental Quality Act (CEQA) pursuant to State CEQA Guidelines Section 15060(c)(3).

**STAFF SUPPORTING INFORMATION:**

The City of San Diego, in concert with the San Diego River Park Coalition and the San Diego River State Conservancy, are working toward creating a San Diego River Park that addresses recreational opportunities, cultural resource protection, habitat conservation and restoration, improvement of the water quality, and development interface of the River from its headwaters to the Pacific Ocean.

To achieve these goals, the City hired the professional consulting firm CIVITAS to produce a draft San Diego River Park Master Plan in 2003. As part of the master planning effort CIVITAS conducted three public workshops and held monthly meetings with the San Diego River Coalition. In addition, public presentations were made to a number of interested community advisory groups (see community participation listed below). On June 21, 2005, the draft Master Plan was presented to the City Council as an Information Item, see Manager's Report No. 05-132. It was noted at the hearing that the draft Master Plan provided a clear and concise set of goals and recommendations and the next step would be to refine the draft Master Plan with an implementation process and prepare a Program Environmental Impact Report (PEIR) and an Economic Analysis.

In 2006, the City advertised a Request for Qualifications (RFQ) for a consultant to complete the planning effort of the draft Master Plan and provide the PEIR and Economic Analysis. Through the consultant selection process, Jones and Stokes were interviewed and selected. City Council approval is being requested since the entire consultant agreement exceeds \$250,000, per Administrative Regulation 25.60.

**Minutes of the Council of the City of San Diego  
for the Regular Meeting of Tuesday, March 25, 2008**

**Page 75**

**EQUAL OPPORTUNITY CONTRACTING:**

Funding Agency: City of San Diego  
Goals: 15% Voluntary (MBE/WBE/DBE/DVBE/OBE)  
Sub Consultant Participation: \$344,560 Other Firms (38.18)  
Other: A Work Force Report was submitted, and an Equal Opportunity Plan was requested and submitted. The Plan is under review by Equal Opportunity Contracting staff. Staff will monitor the Plan and adherence to the Nondiscrimination Ordinance.

**FISCAL CONSIDERATIONS:**

The consultant compensation for the scope of services shall not exceed \$902,013 (scope of Basic Services shall not exceed \$822,013 and Additional Services, if any, shall not exceed \$80,000.) Funding in the amount of \$902,013 is available in CIP-29-666.0, SAN DIEGO RIVER PARK MASTER PLAN: \$300,000 from Fund No. 10505, Environmental Growth Fund; \$507,000 from Fund No. 010518, Regional Park Fund; and \$95,013 from Fund No. 10529, Infrastructure Improvement Fund.

**PREVIOUS COUNCIL and/or COMMITTEE ACTION:**

- R-298286, Consultant Agreement for the Draft Master Plan, August 4, 2003.
- R-300561, Accepting Informational Report, June 21, 2005.

**COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:**

As part of the draft master planning effort, three public workshops were conducted, monthly San Diego River Coalition meetings were held, and presentations were made to a number of interested community advisory and other groups including: Mission Trails Regional Park Citizens Advisory Committee, Wetlands Advisory Committee, Mission Trails Regional Task Force, Tierrasanta Community Council, C3, Mission Bay Park Committee, North Bay PAC Redevelopment District, Ocean Beach Planning Board, Mission Valley Unified Planning Organization, Linda Vista Planning Group, Navajo Community Planners, Old Town Community Planning Committee, Park and Recreation Board Design Review Committee, Park and Recreation Board, and the San Diego River Conservancy.

**KEY STAKEHOLDERS & PROJECTED IMPACTS (if applicable):**

Stakeholders: City and County residents, and landowners adjacent to the San Diego River or within the San Diego River's sphere of influence.

Anderson/Goldstone

Aud. Cert. 2800557.



Minutes of the Council of the City of San Diego  
for the Regular Meeting of Tuesday, March 25, 2008

Page 76

Staff: Deborah Sharpe - (619) 525-8261  
Shannon Thomas - Deputy City Attorney

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 2:16 p.m. – 2:16 p.m.)

MOTION BY FRYE TO ADOPT. Second by Madaffer. Passed by the following vote:  
Peters-yea, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea,  
Madaffer-yea, Hueso-yea.

ITEM-334: Reimbursement Agreement with the San Diego Unified School District for Public  
Improvements Related to the Thurgood Marshall Middle School and Related  
Expenditure of Funds. (Scripps Miramar Ranch Community Area. District 5.)

STAFF'S RECOMMENDATION:

Adopt the following resolution:

(R-2008-597) ADOPTED AS RESOLUTION R-303533

Authorizing the Mayor, or his designated representative, to enter into and execute  
the Reimbursement Agreement with the San Diego Unified School District for the  
improvements set forth therein to the intersection of Pomerado Road and Willow  
Creek Road/Avenue of Nations;

Amending the Fiscal Year 2008 Capital Improvements Program by adding  
CIP-52-806.0, Pomerado Road at Willow Creek/Avenue of Nations Intersection  
Improvements;

Amending the Fiscal Year 2008 Capital Improvements Program Budget for  
CIP-52-806.0, Pomerado Road at Willow Creek/Avenue of Nations Intersection  
Improvements, Fund No. 79007, Scripps Miramar Ranch FBA by increasing the  
budget amount by \$1,290,000;

Authorizing the City Auditor and Comptroller to appropriate and expend the amount not to exceed \$1,290,000 from CIP-52-806.0, Pomerado Road at Willow Creek/Avenue of Nations Intersection Improvements, Fund No. 79007, Scripps Miramar Ranch FBA, for the purpose of reimbursing the cost of the improvements as set forth in the Reimbursement Agreement;

Authorizing the City Auditor and Comptroller, upon advice from the administering departments, to transfer excess funds, if any, to the appropriate reserves.

**STAFF SUPPORTING INFORMATION:**

The San Diego Unified School District (SDUSD) recently completed construction of the Thurgood Marshall Middle School in the community planning area of Scripps Miramar Ranch. In order to accommodate the addition of the school at Pomerado Road and Willow Creek Road, improvements were needed to Pomerado Road and the existing utility infrastructure to support the new school.

The improvements to Pomerado Road consisted of widening the road on both sides of the existing intersection and extending the existing drainage infrastructure to accommodate the widening, re-stripping the widened road and intersection, constructing a new asphalt dike on the west side and curb & gutter on the east side, installation of guardrail on the east side, new streetlights east and west of the intersection, relocation and reprogramming of the traffic signal, ADA compliant curb ramps at all four corners of the intersection, and landscaping and irrigation in the public right of way. These improvements are in the right-of-way, and therefore qualified for inclusion in the Scripps Miramar Ranch Public Facilities Financing Plan. With the support of Council District 5 and the Scripps Ranch Planning Group, a reimbursement agreement is being entered into with the San Diego Unified School District for the improvements. The reimbursement to the SDUSD from the Scripps Miramar Ranch Facilities Benefit Assessments (FBA) fund is capped at \$1,290,000. The balance of the project costs were paid by the SDUSD as part of the contract to construct the school.

**FISCAL CONSIDERATIONS:**

\$1,290,000 will be expended from the Scripps Miramar Ranch Facilities Benefit Assessments (FBA) Fund 79007 to partially reimburse the San Diego Unified School District for these improvements.

**PREVIOUS COUNCIL and/or COMMITTEE ACTION:** None.

**COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:**

The Scripps Ranch and Miramar Ranch North community groups and their representatives worked extensively with the school district during the planning of the school, and endorsed the use of Scripps Miramar Ranch FBA funds for these improvements.

KEY STAKEHOLDERS AND PROJECTED IMPACTS:

The improvements to Pomerado Road were necessary to accommodate the traffic resulting from the new school, which had been planned and needed in the community for several years.

Gabriel/Anderson

Aud. Cert. 2800439.

Staff: Angela Abeyta - (619) 533-3674  
Jana L. Garmo - Deputy City Attorney

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 2:16 p.m. – 2:17 p.m.)

MOTION BY MAIENSCHIN TO ADOPT. Second by Madaffer. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Hueso-yea.

ITEM-335: Response of the City Council to the Grand Jury Report "Past Grand Juror's Association Implementation Review Board".

(See Independent Budget Analyst's Report No. 08-24.)

INDEPENDENT BUDGET ANALYST'S RECOMMENDATION:

Adopt the following resolution:

(R-2008-756 Rev.) ADOPTED AS AMENDED AS RESOLUTION R-303534

Approving and adopting as its own the response to the 2007-2008 San Diego County Grand Jury Report filed January 10, 2008, and titled "Past Grand Juror's Association Implementation Review Board," as set forth in IBA Report No. 08-24 dated March 10, 2008;

Authorizing and directing the City Council President, on behalf of San Diego City Council, to execute and deliver the above-described response to the Presiding Judge of the San Diego County Superior Court no later than April 10, 2008.

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 5:25 p.m. – 5:27 p.m.)

MOTION BY MADAFFER TO ADOPT AS AMENDED TO REVISE THE LANGUAGE IN THE INDEPENDENT BUDGET ANALYST'S REPORT NO. 08-24 DATED MARCH 10, 2008, TO STATE THE RESPONSE TO RECOMMENDATIONS 08-02 AND 08-03 WILL READ "THE RECOMMENDATION WILL BE IMPLEMENTED". Second by Atkins. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Hueso-not present.

ITEM-336: Children's Museum Park (South of Island Avenue Between Front and Union Streets) – Fourth Implementation Agreement to Disposition Agreement – Marina Sub Area of the Centre City Redevelopment Project. (District 2.)

(See Centre City Development Corporation Report No. CCDC-08-03/CCDC-08-02.)

**CENTRE CITY DEVELOPMENT CORPORATION'S RECOMMENDATION:**

Adopt the following resolution:

(R-2008-686) ADOPTED AS RESOLUTION R-303535

Accepting a status update as to the progress of the Museum's efforts at securing a donor and the Museum's commitment to process a future request for naming of the Park in recognition of a major financial donor to the Museum in accordance with the Park and Recreation Board's policy for the naming of parks and recreation facilities.

**SUPPORTING INFORMATION:**

The design consultant's estimated construction cost for the Park was \$2,147,810. The low bid received was for \$2,565,585. On July 31, 2007, the Agency and Council considered the Implementation Agreement and authorized that, in lieu of approving the Implementation Agreement, the Agency Budget be increased by \$417,775 using tax increment receipts for the construction of the Park. The Council found that the Museum had agreed to fund \$417,775 of the Park construction cost in return for being granted naming rights for the Park, but could not then disclose the proposed name for the Park. The Agency and Council also determined to revisit the terms of the Implementation Agreement once the proposed name for the Park was disclosed.

**FISCAL CONSIDERATIONS:**

There are sufficient funds in the FY 08 Budget. The bids were opened May 9, 2007 and the low bid was \$2,565,585. The total Park construction cost includes an estimated \$107,805 for environmental remediation; \$100,000 for construction management costs; and 10% contingency on the low bid of \$256,558; for a total park construction budget of \$3,029,948. The \$417,775 received from the Museum will be used to off-set the cost of the project to the Agency.

**CENTRE CITY DEVELOPMENT CORPORATION RECOMMENDATION:**

On June 27, 2007, the Centre City Development Corporation Board ("CCDC Board") voted 6-0 to award the low bid subject to a contribution from a donor to the Museum in the amount of \$417,775, and to defer the Park naming rights associated with the Museum's contribution to the City Council. On July 11, 2007 the Real Estate Committee and on July 25, 2007, the CCDC Board recommended approval of the Implementation Agreement to accept funds in the amount of \$417,775 from the Museum as a contribution towards the cost of construction of the Park improvements and requested that the Council determine whether or not it is appropriate to delegate naming rights for the Park to the Museum based upon the donor family contribution.

**COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:**

As a means of facilitating the Agency's approval of the Park plans, the Children's Museum Park Committee ("Committee") was assembled in 2001 of CCDC King Promenade and Arts Advisory members and included: CCDC Board members Gil Johnson and Hal Sadler; community members Isabelle Wasserman, Margaret Porter Troupe, Danah Fayman, Dr. Dorothy Smith, Bennett Peji, Manuel Oncina, Reggie Lewis; Children's Museum representatives Kay Wagner, Marc Harris; and CCDC staff members Pam Hamilton, Walter Rask, and Beverly Schroeder. The Committee met with the Park designers to provide input on the proposed designs. Community meetings were also held to encourage the input and participation by the community in the design process for the Park. In the future, the Museum intends to process a request, in accordance with the Park and Recreation Board Policy No. 1001 - Naming of Parks and Recreation Facilities for the Park to be named to reflect the family name of a major financial donor to the Museum for the

construction of improvements to and maintenance of the Park. The current process anticipates a meeting with the Centre City Advisory Committee in its capacity as the Downtown community planning group to consider an advisory recommendation to the Park and Recreation Board for the naming of the Park followed by a meeting of the Park and Recreation Board to consider the Museum request in accordance with Park and Recreation Board Policy No. 1001.

**KEY STAKEHOLDERS AND PROJECTED IMPACTS:**

Key Stakeholders: Children's Museum and Existing and future residents and visitors.  
The projected impact of the action is the additional open space that will be created.

Sanchez/Graham

**NOTE:** See the Redevelopment Agency Agenda of 3/25/2008, for a companion item.

**FILE LOCATION:** MEET

**COUNCIL ACTION:** (Time duration: 3:08 p.m. – 3:08 p.m.)

MOTION BY FAULCONER TO ADOPT. Second by Hueso. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Hueso-yea.

ITEM-337: Authorizing the Acceptance of \$450,000 Repayment of a Portion of the Housing and Urban Development Section 108 Loan # B-96-M-06-0542-A on behalf of Council District Four. (Southeastern San Diego Community Area. District 4.)

(See Southeastern Economic Development Corporation's Report No. SEDC-08-001.)

**SOUTHEASTERN ECONOMIC DEVELOPMENT CORPORATION'S  
RECOMMENDATION:**

Adopt the following resolution:

(R-2008-748) RETURNED TO MAYOR

Authorizing the acceptance of \$450,000 from the Agency (Central Imperial Redevelopment Project Area);

Appropriating these funds into CDBG Fund #18543 for the repayment of a portion of the HUD Section 108 loan #B-96-MC-06-0542-A on behalf of Council District Four (4);

Authorizing the appropriation and expenditure of funds, contingent upon certification of funds availability of the FY 2007 tax allocation bonds by the City Auditor and Comptroller, for the afore-mentioned said repayment of a portion of the HUD Section 108 Loan #B-96-MC-06-0542-A on behalf of Council District Four (4);

Declaring that this activity is not a "project" and is therefore not subject to the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines Section 15060(c)(3).

**SUPPORTING INFORMATION:**

On May 6, 1996, Resolution number R-287278 was adopted by the San Diego City Council authorizing the submission of an application for a Section 108 loan guarantee (B-96-MC-06-0542-A) to the United States Department of Housing and Urban Development (HUD) for the development of Potter Tract, Chollas Creek and Mountain View Community Center.

The aforementioned resolution also authorized repayment of the Section 108 loan to be repaid from a portion of the Fourth Council District Community Development Block Grant annual allocation.

On May 15, 2007, the Agency approved FY08 Program budget for SEDC which included the proceeds anticipated from the taxable FY 07 Tax Allocation Bond proceeds in the Central Imperial Redevelopment Project Area.

On June 12, 2007, and reaffirmed on July 10, 2007, the City authorized issuance of the FY 2007 tax allocation bonds which included the budgeted bond proceeds amount of \$450,000 (net of the cost of issuance) proposed for the repayment of a portion of the HUD Section 108 Loan #B-96-MC-06-0542-A on behalf of the Council District Four.

Authorizing the acceptance of the \$450,000 repayment from the Agency for the portion of the HUD Section 108 Loan on behalf of the Council District Four will assist in the repayment of the Agency loan to the City.

SEDC may budget additional annual payments on the Agency loan from the City contingent on the availability of funds from future bond issuances and tax increment revenues generated by the Central Imperial Redevelopment Project Area.

FISCAL CONSIDERATIONS:

The \$450,000 repayment is available from the FY 2007 taxable bond proceeds of Central Imperial Redevelopment Project Area.

PREVIOUS COUNCIL and/or COMMITTEE ACTIONS:

Approval of the FY 2007 tax allocation bonds on June 12, 2007 and reaffirmed on July 10, 2007 by the City Council which included the \$450,000 for the repayment of a portion of the Section 108 Loan.

KEY STAKEHOLDERS and PROJECTED IMPACTS:

The Fourth Council District.

Dayacap/Smith

Aud. Cert. 2800587.

NOTE: See the Redevelopment Agency Agenda of March 25, 2008, for a companion item.

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 2:18 p.m. – 2:19 p.m.)

MOTION BY COMMON CONSENT TO RETURN TO THE MAYOR. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Hueso-yea.

ITEM-338: Three actions related to Disposition and Development Agreement (DDA) and Associated Actions for El Pedregal Family Apartments Project. (San Ysidro Community Area. District 8.)

(See Redevelopment Agency Report No. RA-08-03/RTC-08-23.)

(Continued from the meeting of March 4, 2008, Item 337, Subitems B, C, and D, at the request of Redevelopment Agency, for further review.)



**NOTE:** Hearing open. No testimony taken on March 4, 2008.

**STAFF'S RECOMMENDATION:**

Adopt the following resolutions:

Subitem-B: (R-2008-656 Cor. Copy) RETURNED TO MAYOR

Stating that the Council of the City of San Diego makes the findings of Benefit to the Naval Training Center Redevelopment Project Area as more fully set forth in Attachment "A";

Stating that the 20% Set Aside Funds identified above shall be utilized for the development and implementation of the proposed El Pedregal Family Apartments Project in the San Ysidro Redevelopment Project Area.

Subitem-C: (R-2008-657 Cor. Copy) RETURNED TO MAYOR

Stating that the Council has received and heard all oral and written objections to the proposed Disposition and Development Agreement (Agreement), to the proposed sale of the real property, and to other matters pertaining to this transaction, and that all such oral and written objections are overruled;

Finding and determining that all consideration to be paid pursuant to the Agreement is in amounts necessary to effectuate the purposes of the Redevelopment Plan for the Project Area;

Finding and determining that the consideration to be paid by the Developer for the sale of the real property in the Project as described in the Agreement is not less than the fair market value of the real property at its highest and best use in accordance with the Redevelopment Plan for the Project Area;

Finding and determining that the sale of the real property in the Project will assist in the elimination of blight in the Project Area, and is consistent with the Redevelopment Plan and the Third Five-Year Implementation Plan for the Project Area;

Approving the sale of the real property and the Agreement which establishes the terms and conditions for the sale and development of the real property in the Project;

Finding and determining that the City of San Diego has previously certified the information contained in the Mitigated Negative Declaration (MND) for this Project, referenced by Project No. 106926 and SCH No. 2007041131, that this Project is adequately addressed in said MND, and that there is no substantial change in circumstance, additional information, or project changes to warrant additional environmental review;

Declaring that a copy of the Disposition and Development Agreement, when executed by the Redevelopment Agency, shall be placed on file in the Office of the City Clerk.

Subitem-D: (R-2008-658 Cor. Copy) RETURNED TO MAYOR

Approving termination of the Owner Participation Agreement dated July 11, 2007, with SYEP Associates, a California limited partnership, for the project;

Declaring that the termination is mutually agreed upon by all parties.

**STAFF SUPPORTING INFORMATION:**

On July 10, 2007, the Redevelopment Agency (the Agency) approved an Owner Participation Agreement (OPA) with Global Premier Development, dba SYEP Associates (the Developer) for the development of the El Pedregal Family Apartments Project, a 45-unit affordable housing development.

The proposed actions under this item will allow for the termination of the aforementioned OPA and execution of a Disposition and Development Agreement (DDA), giving authorization for Agency acquisition of the necessary land for the development of El Pedregal, which is an option not legally available under the existing OPA. Under the proposed DDA, the cost to the Agency will remain not to exceed \$3,606,000 (residual receipts loan), as previously approved under the OPA.

The Developer is proposing the development of a new 45-unit rental housing project located at 104 Averil Road, within the San Ysidro Redevelopment Project Area. The Project shall be developed on two vacant parcels totaling 2.24 acres, and is surrounded by primarily multi-family housing, single family housing, and commercial uses. No demolition is required. The proposed Project shall include one two-bedroom unit, 20 three-bedroom units, and 24 four-bedroom units, all but one with restricted rents for 55 years to levels affordable to households earning up to 30%, 40%, 50% and 60% of Area Median Income.

The Project's design consists of two 2- and 3-story buildings with subterranean parking. The Gross Building Area is approximately 70,110-sf, with a total of 105 parking spaces, or approximately 2.0 spaces per unit. Amenities shall include rec./play facilities, computer room, multipurpose center, education programs, and picnic area. A Mitigated Negative Declaration was certified by the City for the Project on June 13, 2007. The Project Site is fully entitled.

FISCAL CONSIDERATIONS:

The total project cost is \$19,923,000 and is proposed to be funded with Affordable Housing 9% tax credits (1st Round March 2008 tax credits), private financing, deferred developer fee, Federal Home Loan Bank Affordable Housing Program funds, and Agency 20% Low and Moderate Income Housing Set-Aside Funds. Financial assumptions and considerations have been analyzed and supported by Keyser Marston Associates, and are summarized in the Summary (33433) Report and Re-use Analysis.

PREVIOUS COUNCIL and/or COMMITTEE ACTION:

On July 25, 2006, the Agency approved the pooling of the Agency's 20% Low and Moderate Income Housing Set-Aside Funds for new project developments. On October 17, 2006, the Agency approved an ENA for the Project. On July 10, 2007, the Agency approved an OPA with the Developer for the Project.

OTHER RECOMMENDATIONS:

On May 24, 2007, the Agency's Affordable Housing Collaborative Executive Loan Committee (ELC) voted 4-0 in favor of the Project's concept and proposed financing structure.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

On October 17, 2006, January 16, 2007, and May 15, 2007, the Project was presented to the San Ysidro Planning and Development Group (SYPDG), at which times SYPDG voted in support of the Project's concept and proposed financing structure. On February 19, 2008, the draft DDA was presented to the SYPDG as a proposed replacement document for the OPA. There is no Project Area Committee (PAC) in San Ysidro.

KEY STAKEHOLDERS & PROJECTED IMPACTS (if applicable):

The Project is expected to provide significant community enhancement and valuable affordable housing for the San Ysidro Community.

Weinrick/Anderson

Staff: Xavier Del Valle - (619) 236-6260  
Kendall D. Berkey - Deputy City Attorney

**NOTE:** See the Redevelopment Agency Agenda of March 25, 2008, for a companion item.

Minutes of the Council of the City of San Diego  
for the Regular Meeting of Tuesday, March 25, 2008

Page 87

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 2:19 p.m. – 2:19 p.m.)

MOTION BY COMMON CONSENT TO RETURN TO THE MAYOR. Passed by the following vote: Peters-recused, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Hueso-yea.

REPORT OUT OF CLOSED SESSION:

None.

NON-DOCKET ITEMS:

None.

ADJOURNMENT:

The meeting was adjourned by Council President Peters at 5:32 p.m. in honor of the memory of:

Brandon Nicholas Johnson at the request of Council Member Young; and  
Donald "Donnell" Eric Davis, Jr. at the request of Council Member Young.

FILE LOCATION: MINUTES

COUNCIL ACTION: (Time duration: 5:27 p.m. – 5:32 p.m.)

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Elizabeth S. Maland, City Clerk  
City of San Diego

**UNAPPROVED**

THE CITY OF SAN DIEGO, CALIFORNIA  
MINUTES FOR THE ADJOURNED REGULAR COUNCIL MEETING  
OF  
MONDAY, MARCH 31, 2008  
AT 2:00 P.M.  
IN THE COUNCIL CHAMBERS - 12TH FLOOR

Present: None.

Not Present: Council Members Peters, Faulconer, Atkins, Young, Maienschein, Frye,  
Madaffer, Hueso.

Clerk: Richardson.

Due to the observance of Cesar Chavez Day, the City Council meeting of Monday, March 31, 2008, has been adjourned, pursuant to the 2008 Legislative Calendar, adopted by Resolution R-303207 on December 3, 2007.

The meeting of Monday, March 31, 2008, will be held in conjunction with the regularly scheduled meeting of Tuesday, April 1, 2008. (The Closed Session Agenda for Tuesday, April 1, 2008, will commence immediately following the conclusion of the regular open session meeting.)

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Elizabeth S. Maland, City Clerk  
City of San Diego